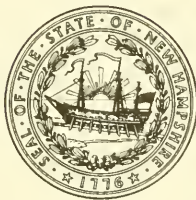


STATE OF NEW HAMPSHIRE



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1996

CONVENING DAY

January 3, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Rev. David Jones, Senate Guest Chaplain.

Lord of all, even of the political process, draw near and stay close to these twenty-four good men and women who are here to do work for the benefit of all the rest of us. Preserve them from decisions which serve only some of the people, from editorials which tell only some of the story, from lobbyists who see only some of the picture, and from a fickle electorate who hears only some of what we need to. Fire their convictions with Your priorities - and all will be well.

Amen

Senator F. King led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

RESOLUTION

INTRODUCTION OF SENATE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 500 - CACR 34 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 500 3024L 96-2088
relative to the purchase of paper products by the state. (Russman, Dist 19; Barnes, Dist 17; Pignatelli, Dist 13; J. Bradley, Carr 8; Schotanus, Sull 3; Merritt, Straf 8; A. Merrill, Straf 8: Environment)

SB 501 3038L 96-2164
repealing a requirement for keeping records of sales of pistols and revolvers. (Rodeschin, Dist 8; McRae, Hills 7; Patenaude, Merr 3: Fish & Game/ Recreation)

SB 502 3619L 96-2179
relative to planning board membership and terms. (Roberge, Dist 9; Wheeler, Dist 11; Colantuono, Dist 14; Hallyburton, Hills 12; Thulander, Hills 6: Executive Departments and Administration)

- SB 503** 3249L 96-2202
relative to the crime of harassment. (Barnes, Dist 17: Judiciary)
- SB 504** 3663L 96-2225
relative to the legal killing of certain dogs. (Cohen, Dist 24: Public Affairs)
- SB 505** 3058L 96-2230
prohibiting bear and deer baiting for hunting purposes. (Cohen, Dist 24: Fish & Game/Recreation)
- SB 506** 3719L 96-2246
establishing a commission on environmental programs. (Pignatelli, Dist 13; Russman, Dist 19; Cohen, Dist 24; J. King, Dist 18; Shaheen, Dist 21; Blaisdell, Dist. 10; Larsen, Dist. 15; J. Bradley, Carr 8; A. Merrill, Straf 8; Musler, Straf 6; Durham, Hills 22; Conroy, Rock 13: Environment)
- SB 507** 3097L 96-2267
relative to the New Hampshire real estate practice act. (Stawasz, Dist 12: Executive Departments and Administration)
- SB 508-A** 3407L 96-2271
making a capital appropriation for an architectural update study for the Glenclyff home for the elderly and making an appropriation therefor. (Gordon, Dist 2; F. King, Dist 1; Johnson, Dist 3; Fraser, Dist 4; J. King, Dist 18; Teschner, Graf 5; W. Williams, Graf 3; LaMott, Graf 5; A. Brown, Graf 9; Amidon, Hills 9: Capital Budget)
- SB 509** 3899L 96-2274
relative to OHRV use on private property. (Gordon, Dist 2; A. Brown, Graf 9: Transportation)
- SB 510** 3326L 96-2275
authorizing town moderators to require a secret ballot. (Gordon, Dist 2; A. Brown, Graf 9; J. Chandler, Merr 1: Public Affairs)
- SB 511** 3325L 96-2320
allowing a motor vehicle manufacturer or distributor to charge back certain service and sales claims to dealers. (Blaisdell, Dist 10: Transportation)
- SB 512** 3856L 96-2321
relative to the definition of "employee" under the workers' compensation statute. (Rubens, Dist 5: Insurance)
- SB 513** 3586L 96-2346
requiring attorneys to be bonded through the New Hampshire Bar Association. (Rodeschin, Dist 8; Rubens, Dist 5; Guaraldi, Graf 14: Insurance)
- SB 514** 3528L 96-2355
relative to the definition of personal watercraft. (Johnson, Dist 3; Gordon, Dist 2; Russman, Dist 19; Cohen, Dist 24: Fish & Game/Recreation)
- SB 515** 3247L 96-2357
relative to venue for arraignment and bail of defaulters. (Johnson, Dist 3; Colantuono, Dist 14; J. Bradley, Carr 8: Judiciary)
- SB 516** 3464L 96-2363
relative to dwellings with lead paint. (Stawasz, Dist 12: Public Institutions, Health and Human Services)

- SB 517-LOCAL** 3215L 96-2375
limiting the property tax exemption for real estate used as rental property by nonprofit charitable organizations. (Shaheen, Dist 21; Wasson, Straf 10; Berube, Straf 14; H. Williams, Straf 12; Spear, Straf 5; Kaen, Straf 7; R. Dodge, Rock 4: Ways and Means)
- SB 518** 3346L 96-2376
relative to financial liability of the university of New Hampshire for a company's default on matching funds obligations for the industrial research center. (Shaheen, Dist 21; Cohen, Dist 24; Blaisdell, Dist 10; Johnson, Dist 3; Barnes, Dist 17; Trelfa, Graf 2; Emerton, Hills 7: Capital Budget)
- SB 519** 3471L 96-2393
repealing the sunset provision of the driver attitude training program. (Roberge, Dist 9; Fraser, Dist 4; Cohen, Dist 24; Shaheen, Dist 21; Bartlett, Belk 6; E. Dodge, Hills 18: Education)
- SB 520** 3469L 96-2399
establishing a study committee on the issue of granting municipalities the option of assessing property taxes on April 1 and October 1 of each year. (Roberge, Dist 9; Burke, Hills 15: Public Affairs)
- SB 521-LOCAL** 3402L 96-2430
establishing a civic center commission. (Larsen, Dist 15; J. King, Dist 18; Fraser, Merr 21; Dunn, Merr 24: Economic Development)
- SB 522** 3488L 96-2431
increasing the income eligibility for child care benefits under AFDC. (Larsen, Dist 15; J. King, Dist 18; Cohen, Dist 24; Shaheen, Dist 21; Copenhaver, Graf 10; Buckley, Hills 44: Public Institutions, Health and Human Services)
- SB 523** 3199L 96-2512
relative to insurance holding companies. (Rodeschin, Dist 8: Insurance)
- SB 524** 3433L 96-2529
relative to filing of reports or inventories with the probate court by guardians, fiduciaries, and executors. (Podles, Dist 16: Judiciary)
- SB 525** 3112L 96-2541
relative to declaratory judgments. (Colantuono, Dist 14; Hess, Merr 11: Judiciary)
- SB 526** 3803L 96-2542
relative to the membership of the commission on the status of the family. (Colantuono, Dist 14: Executive Departments and Administration)
- SB 527** 3898L 96-2544
establishing a committee to study methods of promoting competition among water utilities. (Colantuono, Dist 14; Barnes, Dist 17; D. White, Hills 25: Executive Departments and Administration)
- SB 528** 3456L 96-2558
making certain changes in the law regarding trustees of estates. (Gordon, Dist 2: Banks)
- SB 529** 3342L 96-2315
limiting railroad liability for passenger trains. (Keough, Dist 23: Transportation)

- SB 530** 3204L 96-2573
authorizing the court to suspend the motor vehicle driver's license of a person convicted of criminal mischief. (Cohen, Dist 24; Vaughn, Rock 35; Pantelakos, Rock 30: Judiciary)
- SB 531** 3196L 96-2621
relative to the possession of firearms by persons convicted of violent misdemeanors. (Cohen, Dist 24: Judiciary)
- SB 532** 3578L 96-2624
relative to the notification and recording requirements for groundwater management permits. (Rodeschin, Dist 8: Environment)
- SB 533** 3429L 96-2681
prohibiting the recovery of certain costs associated with special utility contracts. (Shaheen, Dist 21; Barnes, Dist 17; Cohen, Dist 24; J. King, Dist 18; Trombly, Merr 4; A. Merrill, Straf 8; J. Bradley, Carr 8; Below, Graf 13: Executive Departments and Administration)
- SB 534** 3354L 96-2685
requiring candidates to report when either receipts or expenditures exceed a certain amount. (Shaheen, Dist 21; Gordon, Dist 2; Larsen, Dist 15; J. King, Dist 18; Colantuono, Dist 14; A. Merrill, Straf 8; D. Sytek, Rock 26; Nordgren, Graf 10: Executive Departments and Administration)
- SB 535** 3311L 96-2723
relative to automobile insurance. (Rodeschin, Dist 8: Insurance)
- SB 536-LOCAL** 3205L 96-2818
prohibiting public employers and public employee organizations for educational institutions from offering or providing information to students relative to any labor matter between the employer and the employee organization. (Stawasz, Dist 12: Education)
- SB 537** 3356L 96-2838
relative to state contracts for consultants. (Shaheen, Dist 21; Rodeschin, Dist 8; Cohen, Dist 24; J. King, Dist 18; Fraser, Dist 4; H. Williams, Straf 12; Emerton, Hills 7: Executive Departments and Administration)
- SB 538** 3463L 96-2859
limiting the amount of attorneys' compensation in tort cases. (Roberge, Dist 9; Burke, Hills 15; Letendre, Hills 15: Insurance)
- SB 539-FN** 3266L 96-2395
requiring law enforcement officers to submit to a drug and alcohol blood test if involved in a motor vehicle accident causing injury or death. (Barnes, Dist 17; Dolan, Rock 12: Transportation)
- SB 540-FN** 3206L 96-2398
modifying the definition of a qualified investment company. (Fraser, Dist 4: Banks)
- SB 541-FN-A** 3011L 96-2429
exempting the healthy kids corporation from the insurance premium tax. (Larsen, Dist 15; Fraser, Dist 4; Blaisdell, Dist 10; J. King, Dist 18; Shaheen, Dist 21; M. Hawkinson, Coos 7: Insurance)
- SB 542-FN** 3767L 96-2604
relative to license and registration suspensions. (Cohen, Dist 24; Roberge, Dist 9: Transportation)

- SB 543-FN-A-LOCAL** 3386L 96-2663
designating a portion of the business profits tax to be distributed to the cities and towns and making an appropriation therefor. (J. King, Dist 18; Cohen, Dist 24; Blaisdell, Dist 10; Larsen, Dist 15; Pignatelli, Dist 13; Laughlin, Hills 41; Trombly, Merr 4; Buckley, Hills 44; Dwyer, Hills 43: Ways and Means)
- SB 544-FN** 3340L 96-2771
requiring the New Hampshire retirement system to put out to public bid the contract for the retirement system actuary. (Cohen, Dist 24; Dwyer, Hills 43; Drabinowicz, Hills 36: Insurance)
- SB 545** 3217L 96-2307
relative to the powers of city councils. (J. King, Dist. 18; Laughlin, Hills 41; Buckley, Hills 44: Judiciary)
- SB 546-FN** 3435L 96-2824
relative to self-employment for certain public assistance recipients. (Larsen, Dist 15; Cohen, Dist 24; Shaheen, Dist 21; Buckley, Hills 44: Public Institutions, Health and Human Services)
- SB 547-FN-A** 3526L 96-2689
requiring the department of safety services, division of safety services, to publish the New Hampshire boaters guide and making an appropriation therefor. (Barnes, Dist 17: Transportation)
- SB 548-FN** 3321L 96-2305
relative to accidental death benefits for group II members in the New Hampshire retirement system. (J. King, Dist 18; Blaisdell, Dist 10; Laughlin, Hills 41: Insurance)
- SB 549** 2978L 96-2212
relative to the children's trust fund. (Podles, Dist 16; Cohen, Dist 24; Nordgren, Graf 10: Banks)
- SB 550** 3348L 96-2684
allowing a certain town employee to buy back time in the New Hampshire retirement system. (Shaheen, Dist 21; Blaisdell, Dist 10; Barnes, Dist 17; R. Johnson, Rock 1: Insurance)
- SB 551** 3236L 96-2686
establishing a committee to review state-funded health care insurance. (Shaheen, Dist 21; Fraser, Dist 4; J. King, Dist 18; Crory, Graf 10; R. Hawkins, Rock 20: Insurance)
- SB 552** 3366L 96-2721
relative to life, accident, and health insurance, nonprofit health service corporations, and health maintenance organizations. (Rodeschin, Dist 8: Insurance)
- SB 553** 3315L 96-2597
relative to purchasing manufactured housing in manufactured housing parks. (Lovejoy, Dist 6: Public Affairs)
- SB 554-FN** 3027L 96-2673
requiring the department of resources and economic development, the office of state planning, Pease development authority, and the business finance authority to make annual reports on their economic development programs. (Cohen, Dist 24; Shaheen, Dist 21; J. King, Dist 18; Below, Graf 13: Economic Development)

- SB 555-FN-A-LOCAL** 3705L 96-2049
authorizing the sweepstakes commission to establish video lottery game machines and allow electronic games of chance at racetracks and making certain appropriations. (F. King, Dist 1; J. King, Dist 18: Ways and Means)
- SB 556** 3337L 96-2596
relative to services provided by manufactured housing park owners. (Lovejoy, Dist 6: Public Affairs)
- SB 557** 3277L 96-2531
relative to the jurisdiction of the board of manufactured housing. (Danais, Dist 20: Executive Departments and Administration)
- SB 558-FN** 3427L 96-2682
relative to future electric rate increases. (Shaheen, Dist 21; Cohen, Dist 24; J. King, Dist 18; Trombly, Merr 4; A. Merrill, Straf 8: Executive Departments and Administration)
- SB 559-FN-LOCAL** 3136L 96-2549
declaring proposed public collective bargaining agreements to be public records subject to inspection. (Barnes, Dist 17: Public Affairs)
- SB 560** 3070L 96-2509
relative to utilization review programs. (Blaisdell, Dist 10; Shaheen, Dist 21: Insurance)
- SB 561-A** 3177L 96-2265
making a supplemental appropriation for capital improvements to the university system of New Hampshire for Lamson library at Plymouth state college and for Pettee Hall at the university of New Hampshire. (Gordon, Dist 2; Shaheen, Dist 21; F. King, Dist 1; Johnson, Dist 3; Fraser, Dist 4; MacNeil, Graf 7; Tucker, Graf 7; D. Sytek, Rock 26; A. Merrill, Straf 8: Capital Budget)
- SB 562-FN-LOCAL** 3245L 96-2244
returning municipal ordinance fines to the municipalities. (Pignatelli, Dist 13; J. King, Dist 18; Cohen, Dist 24; Shaheen, Dist 21; Larsen, Dist 15; Cooper, Carr 2; Cepaitis, Hills 33; J. Chandler, Merr 1; McGuirk, Ches 1: Judiciary)
- SB 563** 3501L 96-2229
relative to prejudgment interest in civil actions. (Cohen, Dist 24: Judiciary)
- SB 564** 3369L 96-2227
relative to reporting by political committees and candidates. (Cohen, Dist 24; Shaheen, Dist 21; J. King, Dist 18; Blaisdell, Dist 10; Trombly, Merr 4: Executive Departments and Administration)
- SB 565** 3017L 96-2259
establishing a committee to study the feasibility of amending the New Hampshire incorporation statutes in such a way as to make New Hampshire the incorporation haven of the nation. (Stawasz, Dist 12: Judiciary)
- SB 566-FN** 3790L 96-2511
requiring transporters of hazardous material to maintain transportation liability insurance coverage. (Blaisdell, Dist 10; Pignatelli, Dist 13; Cohen, Dist 24: Transportation)

- SB 567-FN** 3986L 96-2394
requiring emergency vehicles to have blue lights and sirens on when speeding or disregarding rules of the road when responding to an emergency or for any other reason. (Barnes, Dist 17; Cohen, Dist 24; Dolan, Rock 12: Transportation)
- SB 568-FN** 3265L 96-2671
requiring the house and senate calendars to be made available on the largest nonprofit public computer network (Internet). (Cohen, Dist 24: Executive Departments and Administration)
- SB 569-FN** 3443L 96-2664
reducing the number of liquor commissioners from 3 to one. (J. King, Dist 18; Cohen, Dist 24; Blaisdell, Dist 10; Pignatelli, Dist 13; Shaheen, Dist 21; Trombly, Merr 4; Dwyer, Hills 43: Executive Departments and Administration)
- SB 570** 3237L 96-2732
relative to the transportation of dogs in motor vehicles. (Roberge, Dist 9; Blaisdell, Dist 10; Russman, Dist 19; Barnes, Dist 17; Cohen, Dist 24; Hart, Hills 37; Wendelboe, Belk 2; Hallyburton, Hills 12; L. Smith, Belk 5; Bartlett, Belk 6; E. Dodge, Hill 18: Transportation)
- SB 571-LOCAL** 3281L 96-2696
relative to speech-language pathologists in the schools. (Lovejoy, Dist 6; Clegg, Hills 23; Spear, Straf 5; DeChane, Straf 6; Searles, Hills 23; Yeaton, Merr 10: Education)
- SB 572** 3806L 96-2668
relative to teacher professional standards. (Rubens, Dist 5; Lovejoy, Dist 6; Roberge, Dist 9; Hunt, Ches 10; Thulander, Hills 6: Education)
- SB 573** 3572L 96-2530
relative to the issuance by courts of telephonic emergency temporary orders. (Podles, Dist 16: Judiciary)
- SB 574** 3273L 96-2697
defining school district liability for an educationally disabled child who is placed at a county correctional facility. (Gordon, Dist 2; W. Riley, Ches 7; McKinley, Straf 2: Education)
- SB 575** 3406L 96-2722
relative to reporting requirements for candidates for local offices. (Roberge, Dist 9; Rubens, Dist 5; Wheeler, Dist 11; Cooper, Carr 2; Burke, Hills 15; L'Heureux, Hills 18: Executive Departments and Administration)
- SB 576-LOCAL** 3353L 96-2620
permitting telecommunications public utilities to provide services at rates lower than those fixed by its schedules of general application to public and private schools grades kindergarten through 12. (J. King, Dist 18; Shaheen, Dist 21; Gordon, Dist 2; Franks, Hills 26; Larson, Graf 8; Dwyer, Hills 43; Reidy, Hills 46: Executive Departments and Administration)
- SB 577** 3631L 96-2543
providing an option for abortion coverage in health insurance. (Colantuono, Dist 14; Barnes, Dist 17; Johnson, Dist 3; Wheeler, Dist 11; F. Riley, Hills 44; Welch, Rock 18; Daniels, Hills 13: Insurance)
- SB 578** 3233L 96-2563
relative to the interception and disclosure of wire or oral communications by emergency personnel. (Currier, Dist 7: Judiciary)

- SB 579** 3801L 96-2860
relative to the membership of the teacher professional standards board. (Roberge, Dist 9; J. King, Dist 18; Podles, Dist 16; Rubens, Dist 5; Thulander, Hills 6; Searles, Hills 23: Education)
- SB 580** 3779L 96-2669
relative to liquor licensees. (Rubens, Dist 5; Stawasz, Dist 12: Ways and Means)
- SB 581-LOCAL** 3240L 96-2017
relative to the Derry local exit on I-93. (Russman, Dist 19; Colantuono, Dist 14; P. Katsakiores, Rock 13; G. Katsakiores, Rock 13; Gleason, Rock 13; S. Packard, Rock 29; Boucher, Rock 29: Transportation)
- SB 582** 3454L 96-2030
requiring automobile insurance companies to offer uninsured motorist coverage as an insurance option, not a requirement. (Barnes, Dist 17; Arnold, Hills 20: Insurance)
- SB 583** 3225L 96-2048
requiring the Coos county commissioners to be elected on a rotating basis. (F. King, Dist 1; Horton, Coos 3: Executive Departments and Administration)
- SB 584-LOCAL** 3787L 96-2819
requiring that bond issues be voted on by official ballot and restricting reconsideration of votes on bond issues. (Stawasz, Dist 12: Public Affairs)
- SB 585-FN-A** 3010L 96-2341
imposing a tax on big game hunting preserve property. (Cohen, Dist 24; Trombly, Merr 4: Fish & Game/Recreation)
- SB 586-LOCAL** 3613L 96-2758
creating a current use taxation category for big game hunting preserves. (Cohen, Dist 24; Trombly, Merr 4: Fish & Game/Recreation)
- SB 587** 3716L 96-2228
authorizing municipal agreements to purchase and distribute electricity. (Cohen, Dist 24; Rubens, Dist 5; Pignatelli, Dist 13; J. King, Dist 18: Economic Development)
- SB 588** 3207L 96-2251
relative to tenant eviction proceedings. (Lovejoy, Dist 6; Roberge, Dist 9: Judiciary)
- SB 589** 3074L 96-2256
relative to the qualifications for members of the fish and game commission. (Pignatelli, Dist 13; Cohen, Dist 24: Executive Departments and Administration)
- SB 590** 3901L 96-2308
relative to insurance coverage for early intervention services. (J. King, Dist 18; Shaheen, Dist 21; Blaisdell, Dist 10; C. Moore, Merr 19: Insurance)
- SB 591** 3201L 96-2310
relative to the appointment of guardians for incapacitated persons and confidential communications. (J. King, Dist 18: Public Institutions, Health and Human Services)
- SB 592-FN-LOCAL** 3093L 96-2365
relative to the minimum annual school building aid grant to a school district. (Cohen, Dist 24: Education)

SB 593-FN-A 3288L 96-2424
authorizing a study of the feasibility of reconstructing New Hampshire Route 125 from the Massachusetts state line to Rochester, New Hampshire, and making an appropriation therefor. (Lovejoy, Dist 6; Russman, Dist 19; D. Welch, Rock 18: Transportation)

SB 594 3815L 96-2434
prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency. (Lovejoy, Dist 6; D. Welch, Rock 18: Public Affairs)

SB 595 3882L 96-2514
relative to licensed insurance agents under workers' compensation. (Danais, Dist 20: Insurance)

SB 596 3648L 96-2619
requiring that all general election ballots alternate the names of candidates according to party. (J. King, Dist 18; Cohen, Dist 24; Shaheen, Dist 21; Pignatelli, Dist 13; Laughlin, Hills 41; Buckley, Hills 44; A. Merrill, Straf 8: Executive Departments and Administration)

SB 597-FN 3339L 96-2660
relative to disability retirement benefits. (J. King, Dist 18; Blaisdell, Dist 10; Laughlin, Hills 41: Insurance)

SB 598-LOCAL 3323L 96-2698
providing that special education state aid follows the pupil, and authorizing the commissioner of revenue administration to determine state and local per capita income. (Gordon, Dist 2; W. Riley, Ches 7; R. Dodge, Rock 4; O'Hearn, Hills 26: Education)

SB 599 3309L 96-2699
providing that school nurses shall be authorized to administer epinephrine for the emergency treatment of anaphylaxis, and setting forth the duties of school nurses in the control and prevention of communicable disease. (J. King, Dist 18; Copenhaver, Graf 10; J. White, Hills 46: Education)

SB 600-FN 3798L 96-2623
clarifying the authority of the division of air resources to issue facility-wide permits for sources not subject to Title V. (Rodeschin, Dist 8: Environment)

SB 601-FN 3167L 96-2622
revising the air toxic control act. (Rodeschin, Dist 8; J. Bradley, Carr 8: Environment)

SB 602 3926L 96-2867
relative to pecuniary benefits for directors and officers of charitable trusts. (Podles, Dist 16: Public Affairs)

SB 603-FN 3975L 96-2736
relative to estate tax apportionments. (Gordon, Dist 2; Fraser, Dist 4: Ways and Means)

SB 604 3630L 96-2662
relative to the duties and obligations of health insurers to subscribers in group insurance plans. (J. King, Dist 18; F. King, Dist 1; Blaisdell, Dist 10; Pignatelli, Dist 13; Shaheen, Dist 21; Trombly, Merr 4; Buckley, Hills 44: Insurance)

- SB 605** 3303L 96-2672
relative to insurance coverage for certain services. (Danaïs, Dist 20: Insurance)
- SB 606** 3665L 96-2739
relative to certification qualifications for marital mediators and prohibiting board involvement in training of marital mediators. (Cohen, Dist 24; Podles, Dist 16; Colantuono, Dist 14: Executive Departments and Administration)
- SB 607-FN-A-LOCAL** 2916L 96-2045
lowering the business profits tax. (Lovejoy, Dist 6; Larsen, Dist 15; Colantuono, Dist 14; Roberge, Dist 9; Pignatelli, Dist 13; Cooper, Carr 2: Ways and Means)
- SB 608-FN-LOCAL** 3720L 96-2056
requiring the department of safety to perform a background check to determine if an applicant for a motor vehicle registration is a wanted felon and deleting a waiver provision relating to retention of photo images and social security numbers. (Roberge, Dist 9; Colantuono, Dist 14: Transportation)
- SB 609-FN** 3689L 96-2057
requiring the division of motor vehicles to report those in default of more than \$100 to a consumer reporting agency. (Roberge, Dist 9; J. Bradley, Carr 8; Lyman, Carr 5: Transportation)
- SB 610** 3766L 96-2062
relative to municipal water, gas and electric utilities. (Shaheen, Dist 21; Cohen, Dist 24; F. King, Dist 1; H. Williams, Straf 12; Guay, Coos 6; Thomas, Belk 3: Executive Departments and Administration)
- SB 611** 3088L 96-2078
relative to the duties of real estate licensees. (Fraser, Dist 4: Executive Departments and Administration)
- SB 612** 3865L 96-2079
relative to successful completion of the impaired driver intervention program. (Roberge, Dist 9; Brundige, Hills 18: Judiciary)
- SB 613** 2980L 96-2141
proclaiming December 7 of each year as National Pearl Harbor Remembrance Day. (Barnes, Dist 17: Public Affairs)
- SB 614** 3322L 96-2203
authorizing licensing of alcohol and drug counselors. (Rodeschin, Dist 8; Amidon, Hills 9: Executive Departments and Administration)
- SB 615** 2960L 96-2204
relative to property left behind by tenants and relative to damage deposits for pets. (Stawasz, Dist 12: Public Affairs)
- SB 616** 3044L 96-2272
relative to a spouse's name change upon divorce. (Gordon, Dist 2: Judiciary)
- SB 617-LOCAL** 3964L 96-2291
enabling appointment of sewer commissioners and the establishment of municipal boards of public works commissioners. (Gordon, Dist 2; Phinney, Graf 8: Executive Departments and Administration)

- SB 618** 3827L 96-2865
relative to extended terms of imprisonment for certain DWI offenses. (Barnes, Dist 17; Colantuono, Dist 14; Lovejoy, Dist 6; Christie, Rock 22; Dolan, Rock 12; Reynolds, Straf 13: Judiciary)
- SB 619** 3576L 96-2273
relative to the voluntary administration of estates. (Gordon, Dist 2; Hallyburton, Hills 12: Public Institutions, Health and Human Services)
- SB 620-FN** 3718L 96-2300
postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years. (Rodeschin, Dist 8; McRae, Hills 7: Environment)
- SB 621-FN-LOCAL** 3495L 96-2356
regulating the use of heating, agitating, and other devices in public waters. (Johnson, Dist 3: Fish & Game/Recreation)
- SB 622-FN** 3279L 96-2492
relative to the custody of remains of deceased persons and the profession of embalmers and funeral directors. (Blaisdell, Dist 10: Executive Departments and Administration)
- SB 623** 3334L 96-2522
to provide an optional retirement program for employees of the department of regional community-technical colleges. (Fraser, Dist 4: Insurance)
- SB 624** 3032L 96-2661
establishing a committee to study ways to promote the safest hypodermic needle to eliminate the transmission of bloodborne diseases. (J. King, Dist 18; Cohen, Dist 24; Shaheen, Dist 21; Copenhaver, Graf 10; Buckley, Hills 44: Public Institutions, Health and Human Services)
- SB 625** 3304L 96-2719
relative to insurance fraud. (Rodeschin, Dist 8: Insurance)
- SB 626** 3539L 96-2821
relative to the style and applicability of administrative rules. (Stawasz, Dist 12: Executive Departments and Administration)
- SB 627** 3756L 96-2837
relative to insurance coverage for childbirth. (Shaheen, Dist 21; Russman, Dist 19; Fraser, Dist 4; J. King, Dist 18; Pignatelli, Dist 13; Dowd, Rock 13; M. Fuller Clark, Rock 31: Insurance)
- SB 628-LOCAL** 3591L 96-2816
relative to authority over certain accident scenes. (Stawasz, Dist 12: Transportation)
- SB 629** 3660L 96-2735
relative to testamentary additions to trusts. (Gordon, Dist 2; Fraser, Dist 4: Judiciary)
- SB 630-FN** 3584L 96-2862
relative to outdoor advertising devices and permit fees. (F. King, Dist 1; J. King, Dist 18; Lovejoy, Dist 6; Cohen, Dist 24; Boutin, Hills 37; Dwyer, Hills 43; D. Welch, Rock 18; Horton, Coos 3: Transportation)
- SB 631** 3774L 96-2864
extending the reporting date of the retail wheeling and electric utility restructuring committee. (Rodeschin, Dist 8: Executive Departments and Administration)

- SB 632** 3466L 96-2839
requiring municipal water companies to provide notice and opportunity to certain tenants prior to termination of service. (Shaheen, Dist 21; J. King, Dist 18; Syracuse, Rock 33: Public Affairs)
- SB 633-FN-A** 3264L 96-2349
relative to victim restitution and compensation and making an appropriation therefor. (Rubens, Dist 5; Cohen, Dist 24; Gordon, Dist 2; Wheeler, Dist 11; Cooper, Carr 2; F. Riley, Hills 44; Mittelman, Hills 37; Dickinson, Carr 2; Kurk, Hills 5: Judiciary)
- SB 634** 3540L 96-2817
establishing a committee to study the feasibility of legislative review of judges and term limitations on judicial appointments. (Stawasz, Dist 12: Judiciary)
- SB 635-FN** 3319L 96-2306
relative to cost of living adjustments for retired firefighters. (J. King, Dist 18; Cohen, Dist 24; Blaisdell, Dist 10; Shaheen, Dist 21; Laughlin, Hills 41; Buckley, Hills 44: Insurance)
- SB 636-FN-LOCAL** 3349L 96-2752
requiring local land use boards to prepare a checklist containing the information necessary for submitting an application to the board. (Stawasz, Dist 12: Executive Departments and Administration)
- SB 637** 3927L 96-2657
requiring the commissioner of the department of environmental services to study and recommend statutory changes establishing a fabric care environmental response program. (Blaisdell, Dist 10; Cohen, Dist 24: Environment)
- SB 638** 3932L 96-2350
relative to juvenile restitution and parental responsibility. (Rubens, Dist 5; Podles, Dist 16; Cohen, Dist 24; Gordon, Dist 2; Wheeler, Dist 11; Cooper, Carr 2; Dickinson, Carr 2; D. Welch, Rock 18; F. Riley, Hills 44; Fenton, Hills 24: Judiciary)
- SB 639** 3656L 96-2823
limiting the fees charged by ticket agencies. (Stawasz, Dist 12: Fish & Game/Recreation)
- SB 640** 3449L 96-2797
relative to acquisitions and mergers involving national banks. (Fraser, Dist 4: Banks)
- SB 641** 3156L 96-2763
establishing a committee to investigate the contract between Wheelabrator Concord, LP, and the New Hampshire/Vermont solid waste project. (Cohen, Dist 24; Cloutier, Sull 8: Environment)
- SB 642-FN-A** 3602L 96-2756
establishing the office of small business advocate and making an appropriation therefor. (Lovejoy, Dist 6; Roberge, Dist 9: Executive Departments and Administration)
- SB 643-LOCAL** 3558L 96-2749
requiring housing authorities to make the same payments in lieu of taxes as other nonprofit housing projects. (Stawasz, Dist 12: Ways and Means)

- SB 644** 3810L 96-2751
clarifying the definition of a meeting under the right-to-know law. (Stawasz, Dist 12: Public Affairs)
- SB 645-FN-A** 3395L 96-2213
relative to congregate housing and making an appropriation therefor. (Podles, Dist 16; Shaheen, Dist 21; Blaisdell, Dist 10; Cohen, Dist 24; Langley, Rock 24: Public Institutions, Health and Human Services)
- SB 646-FN** 3214L 96-2618
allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence and permitting certain prisoners to be sentenced to substance abuse treatment centers. (J. King, Dist 18; Cohen, Dist 24; F. King, Dist 1; Blaisdell, Dist 10; Trombly, Merr 4: Judiciary)
- SB 647-FN** 3595L 96-2665
permitting holders of certain licenses to sell premium beer. (J. King, Dist 18; Cohen, Dist 24; Blaisdell, Dist 10: Ways and Means)
- SB 648-FN-LOCAL** 3473L 96-2733
relative to child support. (Podles, Dist 16; Rubens, Dist 5; L. Johnson, Hills 40; Mittelman, Hills 37; Holmes, Merr 14; Morello, Hills 38: Judiciary)
- SB 649-FN** 3388L 96-2753
relative to the definition of "self-support reserve" used in determining an obligor's child support obligation. (Stawasz, Dist 12: Judiciary)
- SB 650-FN** 3560L 96-2822
exempting real and personal property of a decedent from the legacies and successions tax when such property passes to or for the use of the siblings of the decedent. (Stawasz, Dist 12: Ways and Means)
- SB 651** 3563L 96-2403
providing for horse racing purse parity. (Fraser, Dist 4; Blaisdell, Dist 10; Gage, Rock 26: Ways and Means)
- SB 652-FN** 3610L 96-2588
authorizing the sweepstakes commission to establish a pilot program for electronic games of chance. (Fraser, Dist 4: Ways and Means)
- SB 653-FN** 3562L 96-2570
establishing the parent and pupil rights law. (Wheeler, Dist 11; Roberge, Dist 9: Education)
- SB 654-FN** 3087L 96-2247
relative to fees for certain hunting and fishing licenses. (Pignatelli, Dist 13; Blaisdell, Dist 10; Cohen, Dist 24; D. Cote, Hills 29; Boucher, Rock 29: Fish & Game/Recreation)
- SB 655-LOCAL** 3195L 96-2490
requiring criminal history records checks for employment applicants if the position would require such applicants to be on school property or with students and requiring termination of school employees convicted of certain crimes. (Roberge, Dist 9; Gordon, Dist 2; Rubens, Dist 5; J. King, Dist 18; Thulander, Hills 6; Searles, Hills 23: Education)
- SB 656-FN** 3256L 96-2683
expanding drug-free school zones to include Head Start facilities. (Shaheen, Dist 21; Podles, Dist 16; Pignatelli, Dist 13; Blaisdell, Dist 10; J. King, Dist 18; H. Williams, Straf 12; Hilliard, Straf 14; R. Hawkins, Rock 20: Education)

- SB 657** 4097L 96-2874
extending the deadline of the employee assistance program study committee. (J. King, Dist 18: Executive Departments and Administration)
- SB 658** 4123L 96-2875
requiring the division of personnel, coordinator of training to cooperate with the university system regarding the training of state employees. (J. King, Dist 18: Education)
- SB 659** 4103L 96-2909
allowing self-employed persons or business owners who have paid into the unemployment compensation fund to collect benefits. (Danais, Dist 20: Insurance)
- SB 660** 4078L 96-2876
relative to the central registry in the department of health and human services. (J. King, Dist 18; S. Holley, Hills 28: Public Institutions, Health and Human Services)
- SB 661-FN** 4096L 96-2873
increasing the limit of a nonlapsing revolving fund established in the division of personnel for state and municipal employee training and education. (J. King, Dist 18; Shaheen, Dist 21; Reidy, Hills 46; Dwyer, Hills 43: Finance)
- SB 662-FN** 4102L 96-2900
relative to real estate appraisers. (Wheeler, Dist. 11; Johnson, Dist. 3; Blaisdell, Dist. 10; Rodeschin, Dist 8; Goulet, Hills 15; Dyer, Hills 8; S. Holley, Hills 28: Public Affairs)
- SB 663** 4108L 96-2887
relative to lead paint insurance coverage and lead paint risk reduction. (Wheeler, Dist 11; Herman, Hills 13: Public Institutions, Health and Human Services)
- SB 664** 3314L 96-2540
relative to remedies against licensing authorities for failure to comply with state laws regarding licenses to carry pistols and revolvers. (Colantuono, Dist. 14; Judiciary)
- SCR 20** 3071L 96-2432
demanding that the federal government cease enacting mandates that are beyond the scope of the 10th Amendment to the United States Constitution. (Lovejoy, Dist 6: Public Affairs)
- SCR 21** 3082L 96-2245
urging the President of the United States and Congress to establish an independent commission to advise Congress on campaign finance reform legislation. (Pignatelli, Dist 13; J. King, Dist 18; Cohen, Dist 24; Larsen, Dist 15; Shaheen, Dist 21; M. Fuller Clark, Rock 31; Copenhagen, Graf 10; C. Wheeler, Hills 29; Rogers, Merr 22; Teschner, Graf 5: Public Affairs)
- SJR 20** 3942L 96-2866
establishing the New Hampshire Commission on the Smithsonian Festival of American Folklife featuring New Hampshire to be held on the National Mall in Washington, D.C., in 1999. (Rodeschin, Dist 8; Avery, Ches 8; McGuirk, Ches 1: Public Affairs)

CACR 34

2970L

96-2116

Relating To: amending the New Hampshire constitution to provide that registers of probate be appointed instead of elected. Providing That: registers of probate shall be appointed instead of elected. (Russman, Dist 19; D. Sytek, Rock 26: Executive Departments and Administration)

Adopted.**HOUSE MESSAGE**

The House of Representatives is ready to meet in Joint Convention for the purpose of hearing the State of the State Address by the Governor, His Excellency, Stephen E. Merrill.

Recess.**Out of recess.****MOTION TO VACATE**

Senator Rubens moved to vacate **SB 662-FN**, relative to real estate appraisers, from the Public Affairs Committee to the Executive Departments and Administration Committee.

Adopted.**SB 662-FN is vacated.****ANNOUNCEMENTS****JOINT RULES**

Senator Colantuono moved the adoption of the proposed deadlines for the 1996 Session as presented by the Joint Rules Committee.

Adopted.**JOINT RULES AMENDMENT**

January 3, 1996, Wednesday	Opening Day
January 9, 1996, Tuesday	Last day to introduce supplemental Budget
January 11, 1996, Thursday	Last day for action on all rereferred bills
February 8, 1996, Thursday	Last day to introduce all bills
March 7, 1996, Thursday-Crossover	Last day to act on all non-money bills
March 20, 1996, Wednesday-Crossover	Last day to act on all money bills
In the non-originating body:	
April 18, 1996, Thursday	Last day to act on all non-money bills
May 9, 1996, Thursday	Last day to act on all money bills
May 16, 1996, Thursday	Last day to form committees of conference
May 22, 1996, Wednesday	Last day to file Committees of Conference reports
May 24, 1996, Friday	Committees of Conference reports available
May 29, 1996, Wednesday	Last day to act on all committee of conference reports
June 6, 1996, Thursday	All bills to the Governor

Amendment adopted.

SENATE RULES

Senator Stawasz, moved that the Senate Rules of 1995 be adopted as the Rules of the 1996 session with the following amendment.

Rule 17-A (a) THE OFFICE OF LEGISLATIVE SERVICES SHALL NOT DRAFT A SENATE BILL OR JOINT RESOLUTION, UNLESS A REQUEST BY A MEMBER FOR DRAFTING WITH COMPLETE INFORMATION HAS BEEN RECEIVED NOT LATER THAN 5:00 p.m. JUNE 30, 1995.

Rule 17-A (b) EVERY SENATE BILL AND JOINT RESOLUTION MUST BE SIGNED OFF IN LEGISLATIVE SERVICES BY 5:00 p.m. OCTOBER 30, 1995.

THESE CHANGES REFLECT THE DATES ESTABLISHED BY JOINT RULES AND HAVE ALREADY PAST.

Adopted.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Thursday, January 11, 1996 at 10:00 a.m.

Adopted.

LATE SESSION

Senator J. King moved that the business of the day being completed, the Senate now adjourn until Thursday, January 11 at 10:00 a.m.

Adopted.

Adjournment.

January 11, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Senate Guest Chaplain, David P. Jones.

Great and gracious God, may each Senator here find within himself or herself today firm convictions, perceptive clarity, limitless charity and thorough humility, so that each will have all the power they need from you to help the rest of us discern the difference between what we think we want and what we truly need.

Amen

Senator Gordon led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

RESOLUTION

INTRODUCTION OF SENATE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Constitutional Amendment Concurrent Resolution numbered 37 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

CACR 37, Relating to: protecting the rights of parents to direct the upbringing and education of their children. Providing that: parents shall not be compelled to raise or educate their child in any manner to which they are conscientiously opposed. (Wheeler, Dist. 11: Education)

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 123-FN-A, establishing a committee which shall develop a master plan for the Laconia state school property.

SB 127-FN, relative to licenses and fees for beverage manufacturers.

SB 148-FN-A, establishing the New Hampshire real estate investment trust act and making an appropriation therefor.

SB 152-FN, relative to fees for filing documents with the insurance department.

SB 153-A, adding the reconstruction of sections of U.S. Route 3 New Hampshire Route 11 in the towns of Belmont and Tilton to the state 10-year transportation plan.

SB 167-FN, requiring any person applying for or renewing a driver's license to be checked through the National Crime Information Center for wanted felons and the National Law Enforcement Telecommunications Systems, as a precondition to issuance, and imposing a surcharge on fines and default payments which are overdue to the division of motor vehicles.

SB 169-A, relative to the design of the relocation and reconstruction of NH Route 140 in the town of Belmont and making an appropriation therefor.

SB 171-FN-L, allowing municipalities to withdraw from school administrative units and authorizing municipalities to assume SAU responsibilities.

COMMITTEE REPORTS

HB 283, an act relative to the application of state banking laws, relative to loan loss reserves, and repealing provisions regarding guaranty funds for savings banks and building and loan associations. Banks Committee. Vote: 4-0. Inexpedient to legislate. Senator Fraser for the committee.

SENATOR FRASER: Mr. President and members of the senate, this bill was originally re-referred because of activity that was going on in Washington. The things that were proposed have now been adopted. The need for 283 no longer exists and we urge the senate to support the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 417, an act relative to investments by town trustees. Banks Committee. Vote: 4-0. Ought to pass with amendment. Senator Blaisdell for the committee.

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Amendment to HB 417

Amend the title of the bill by replacing it with the following:

AN ACT

relative to investments of public funds by trustees.

Amend the bill by replacing all after the enacting clause with the following:

1 Investments by Governmental Entities. Amend RSA 6-B:3, I to read as follows:

I. Notwithstanding any other provisions of state law, for the purpose of coordinating state activity in the bond market, all state and local governmental entities authorized by law to issue bonds, including, but not limited to: all state agencies, the university system of New Hampshire, the New Hampshire municipal bond bank, the New Hampshire housing finance agency, all counties, cities, towns, village districts, school districts, precincts, housing authorities, local development corporations, and any special purpose districts or authorities shall provide the office of investment and debt management with the notification of intent to borrow or issue bonds at the earliest possible date; provided, however, that such issuers shall, no later than 30 days prior to the sale of any debt issue at public or private sale, give written notice of the proposed sale to the office of investment and debt management, by mail, postage prepaid. Failure to give this notice shall not affect the validity of the sale. ***At least yearly, the state treasurer shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.***

2 Investments by Counties. Amend RSA 29:1 to read as follows:

29:1 Duties. The county treasurer shall have custody of all moneys belonging to the county, and shall pay out the same only upon orders of the commissioners. [He] ***The county treasurer*** shall deposit the same in participation units in the public deposit investment pool established pursuant to RSA 383:22 or in solvent banks in the state, except that funds may be deposited in banks outside the state if such banks pledge and deliver to the state treasurer as collateral security for such deposits United States government obligations, United States government agency obligations, or obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case. Said out-of-state banks shall make a monthly report of such deposits to the state treasurer. The amount of collected funds on deposit in any one bank shall not at any time exceed the sum of its paid-up capital and surplus. The county treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from the county treasury, and of all notes given by the county, with the particulars thereof. At the close of each fiscal year, [he] ***the county treasurer*** shall make a report to the county, giving a particular account of all [his] ***the treasurer's*** financial transactions during the year. [He] ***The treasurer*** shall furnish to the commissioners statements from [his] ***the*** books, and submit [his] ***the*** books and vouchers to them and to the county auditors for examination, whenever so requested. Whenever the county treasurer has in [his] custody an excess of funds which are not immediately needed for the purpose of expenditure, [he] ***the treasurer*** shall, with the approval of the commissioners, invest the same in obligations of the United States government, in participation units in the public deposit investment pool

established pursuant to RSA 383:22, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits of banks incorporated under the laws of the state of New Hampshire or in national banks located within this state or the commonwealth of Massachusetts. Any person who directly or indirectly receives any such funds or moneys for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment, an option to have such funds secured by collateral having a value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the county. Only securities defined by the bank commissioner in rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral. ***At least yearly, the county commissioners shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.***

3 Investments by Counties. Amend RSA 29:3 to read as follows:

29:3 Excess Funds. Whenever the county treasurer has in [his] custody an excess of funds which are not immediately needed for the purpose of expenditure [he] ***the county treasurer*** may, with the approval of the county commissioners and county executive committee, invest the same in short-term obligations of the United States or in participation units in the public deposit investment pool established pursuant to RSA 383:22, upon such terms as shall be approved by the county commissioners. Any person who directly or indirectly receives any such funds or moneys for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment, an option to have such funds secured by collateral having a value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the county. Only securities defined by the bank commissioner in rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral. ***At least yearly, the county commissioners shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.***

4 Investment Policy Required. Amend RSA 31:25 to read as follows:

31:25 Custody; Investments. The trustees shall have the custody of all trust funds held by their town. The funds shall be invested only by deposit in some savings bank or in the savings department of a national bank or trust company in this state, or in shares of any building and loan association or cooperative bank, incorporated and doing business under the laws of this state, or in the shares of any federal savings and loan association, located and doing business in this state, or in bonds, notes or other obligations of the United States government, or in state, county, town, city, school district, water and sewer district bonds and the notes of towns or cities in this state; and such stocks and bonds as are legal for investment by New Hampshire savings banks and when so invested, the trustees shall not be liable for the loss thereof; and in any common trust fund established by the New Hampshire Charitable Foundation in accordance with RSA 292:23. The trustees may retain investments as received from donors, until the maturity thereof. ***The trustees shall formally adopt an investment policy for all investments made by them or by their agents for any trust funds in their custody. Such investment policy shall be reviewed and confirmed at least annually.***

5 Professional Brokerage Assistance. Amend the section heading of RSA 31:38-a and RSA 31:38-a, I to read as follows:

31:38-a Professional Banking **and Brokerage** Assistance.

I. The provisions of RSA 31:19 through 31:38 as amended shall remain in full force and effect. This section is intended only to provide help to trustees covered by this subdivision by enabling them to have professional banking **and brokerage** assistance in the performance of their duties as trustees.

6 New Paragraphs; Brokerage Firm; Portfolio Management Departments; Investment Advisor. Amend RSA 31:38-a by inserting after paragraph II the following new paragraphs:

II-a. "Brokerage firm" in this section means a firm registered under the securities law effecting transactions in securities for the accounts of others.

II-b. "Portfolio management department" in this section means the department of a brokerage firm responsible for investment management of client accounts.

II-c. "Investment advisor" in this section means a qualified investment advisory firm registered with the appropriate regulatory authorities. Such firm may or may not be associated with a brokerage firm as defined in paragraph II-a.

7 Placing Securities in a Brokerage Firm. Amend RSA 31:38-a, III to read as follows:

III. Any trustee or trustees of trust funds authorized by this chapter may hire or employ the trust department or departments of a bank or banks **or a brokerage firm** to assist in the management and investment of trust fund resources or to provide bookkeeping services in connection therewith or to do both. They may also place securities in the nominee name of a trust department or departments **or a brokerage firm** to facilitate transfers for such securities. Trust fund records maintained by any bank **or brokerage firm** must be available at all times for examination by local auditors, by independent accountants or auditors retained by a municipality, or by the auditors of the department of revenue administration; and such records shall be municipal records and property. ***In employing such trust departments, portfolio management departments, or investment advisors, the trustees may enter into contracts or agreements delegating the management of such trust funds to those departments subject to investment guidelines adopted by the trustees under applicable statute and subject to at least quarterly review and approval of such management by the trustees.***

8 Investments by Cities. Amend RSA 34:5 to read as follows:

34:5 Investment. The moneys in such fund shall be kept in a separate account and not intermingled with the other funds of the city. Said capital reserve fund shall be invested only by deposit in some savings bank or in the savings department of a national bank or trust company, or in the shares of a cooperative bank, building and loan association, or federal savings and loan association, in this state or in bonds, notes or other obligations of the United States government, in bonds or notes of this state, in such stocks and bonds as are legal for investment by New Hampshire savings banks, or in participation units in the public deposit investment pool established pursuant to RSA 383:22, and when so invested in good faith the trustees hereinafter named shall not be liable for the loss thereof. Any interest earned or capital gains realized on the moneys so invested shall accrue to and become a part of the fund. Deposits in banks

shall be made in the name of the city, and it shall appear upon the book thereof that the same is a capital reserve fund. Any person who directly or indirectly receives any such funds or moneys for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment, an option to have such funds secured by collateral having a value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the city. Only securities defined by the bank commissioner in rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral. ***At least yearly, the trustees of trust funds shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.***

9 Investments by Certain Municipalities. Amend RSA 35:9 to read as follows:

35:9 Investment. The moneys in each such fund shall be kept in a separate account and not intermingled with other funds of said municipality. Said capital reserve fund shall be invested only by deposit in some savings bank or in the savings department of a national bank or trust company, or in the shares of a cooperative bank, building and loan association, or federal savings and loan association, in this state, or in bonds, notes or other obligations of the United States government, or in bonds or notes of this state, in such stocks and bonds as are legal for investment by New Hampshire savings banks, or in participation units in the public deposit investment pool established pursuant to RSA 383:22. When so invested the trustees hereinafter named shall not be liable for the loss thereof. Any interest earned or capital gains realized on the moneys so invested shall accrue to and become a part of the fund. Deposits in banks shall be made in the name of the town, district or county which holds the same as a reserve, and it shall appear upon the books thereof that the same is a capital reserve fund. Any person who directly or indirectly receives any such capital reserve funds for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment an option to have such funds secured by collateral having a value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the town, school district, village district or county depositing or investing such funds. Only securities defined by the bank commissioner as provided by rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral. ***At least yearly, the governing body of the town, school district, village district, or county shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.***

10 Investments by Town Treasurers. Amend RSA 41:29, IV to read as follows:

IV. Whenever the town treasurer has in [his] custody an excess of funds which are not immediately needed for the purpose of expenditure, [he] ***the town treasurer*** shall, with the approval of the selectmen, invest the same in obligations of the United States government, in the public deposit investment pool established pursuant to RSA 383:22, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits of banks incorporated under the laws of the state of New Hampshire or in national banks located within this state or the commonwealth of Massachusetts. ***At least***

yearly, the selectmen shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.

11 Investments by City Treasurers. Amend RSA 48:16, III to read as follows:

III. Whenever the city treasurer has in [his] custody an excess of funds which are not immediately needed for the purpose of expenditure, [he] ***the city treasurer*** shall, with the approval of the mayor and a majority of the city council, invest the same in obligations of the United States government, in participation units in the public deposit investment pool established pursuant to RSA 383:22, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits of banks incorporated under the laws of the state of New Hampshire or in national banks located within this state or the commonwealth of Massachusetts. ***At least yearly, the city council or board of aldermen shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.***

12 School District Treasurers. Amend RSA 197:23-a to read as follows:

197:23-a Treasurer's Duties. The treasurer shall have custody of all moneys belonging to the district and shall pay out the same only upon orders of the school board or upon orders of the 2 or more members of the school board empowered by the school board as a whole to authorize payments. [He] ***The treasurer*** shall deposit the [same] ***moneys*** in participation units in the public deposit investment pool established pursuant to RSA 383:22, or in solvent banks in the state, except that funds may be deposited in banks outside the state if such banks pledge and deliver to the state treasurer as collateral security for such deposits United States government obligations, United States government agency obligations, or obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case. [Said] ***Such*** out-of-state banks shall make a monthly report of such deposits to the state treasurer. The amount of collected funds on deposit in any one bank shall not at any time exceed the sum of its paid-up capital and surplus. The treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from the district treasury, and of all notes given by the district, with the particulars thereof. At the close of each fiscal year, [he] ***the treasurer*** shall make a report to the district, giving a particular account of all his financial transactions during the year. [He] ***The treasurer*** shall furnish to the school board statements from [his] ***the*** books, and submit [his] ***the*** books and vouchers to them and to the auditors for examination, whenever so requested. Whenever the treasurer has in [his] custody an excess of funds which are not immediately needed for the purpose of expenditure, [he] ***the treasurer*** shall, with the approval of the school board, invest the same in obligations of the United States government, in participation units in the public deposit investment pool established pursuant to RSA 383:22, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits of banks incorporated under the laws of the state of New Hampshire or in national banks located within this state or the commonwealth of Massachusetts. Any person who directly or indirectly receives any such funds for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment an option to have such funds secured by collateral having a value at least equal

to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the city. Only securities defined by the bank commissioner as provided by rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral. *At least yearly, the school district shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.*

13 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill allows town trustees to obtain the assistance of a brokerage firm as an alternative to a bank.

The bill also requires the local governing bodies of counties, cities, towns, school districts and village districts to review and adopt, annually, an investment policy for the investment of public funds.

SENATOR BLAISDELL: Mr. President and members of the senate, this is another bill like the one that Senator Fraser was talking about that needed some work. It was introduced at the request of the city treasurer for the city of Manchester. This bill allows all cities and towns to use brokerage firms for the investment of public funds as an alternative to banks. We amended the bill, at the request of the state treasurer, to require all cities and towns to develop an investment policy for that city or town which would be subject to the annual review of the state treasurer. That was the most important part of the bill to me, that the state treasurer would have an annual review. I move ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SJR 2, a resolution urging the New Hampshire public utilities commission to urge the Federal Energy Regulatory Commission to favorably consider certain privately owned electric utilities. Executive Departments and Administration Committee. Vote: 5-0. Inexpedient to legislate. Senator Larsen for the committee.

SENATOR LARSEN: The committee looked at this bill and found it inexpedient to legislate. The special study committee has already taken care of these issues, so the committee found this bill inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 47, an act relative to special contracts for electrical power and services. Executive Departments and Administration Committee. Vote: 4-1. Inexpedient to legislate. Senator Rodeschin for the committee.

SENATOR RODESCHIN: On SB 47, the committee felt that the issue of the special contracts will be dealt with by the Public Utilities Commission. They already have developed guidelines for economic development special contracts and are working on guidelines for load retention special contracts. The committee felt that they do not need legislative direction to complete their tasks. Another bill has been introduced in this session, SB 533, which is relative to special contracts and it will be heard in the committee on January 25, 1996. It is a much better bill and is a protection for the consumers. Another concern that the committee had is if we have guidelines for businesses that are not going to be leaving the state or are not going to be losing employment, we will gear their request for special contract or lower rates, meet the guidelines that are

on the PUC, and I think that would be detrimental to the state. So we would ask you to support the majority of the committee of inexpedient to legislate. Thank you.

SENATOR SHAHEEN: I rise today to urge this senate to overturn the report of the Executive Departments and Administration Committee on both SB 47 and SB 48. I have to say I do that not just because these are bills that I am sponsoring because I also asked the committee to kill SJR 2 and SB 49, but because I think that we have gone beyond the issues that are addressed in those two bills. I will, if it is all right with the senate president, address my concerns about SB 47 and SB 48 jointly this morning, because I think the fundamental issue is the same with both bills. The question I think we face in New Hampshire today is no longer whether we are going to move towards competition. Open competition in the electric industry is inevitable. Even PSNH agrees with that, although they would like to move towards competition on their terms and on their timetable. We have heard in the last few months almost everyone in state government, the governor and the legislature, profess to support open competition. I believe it's a safe bet that no one in this body is going to come out in the next couple of months against lowering electric rates and against competition. But, unlike electricity, talk is cheap. I think the question, as we vote on SB 47 and SB 48, is whether we are willing to translate that talk into action this morning. Our failure to do more than just talk will be very costly for the ratepayers of New Hampshire. As Senator Rubens has pointed out, the high price of power is costing the state about \$400 million a year and every time that we delay, the price mounts. So the real issue I think we face now is who is going to benefit most from the inevitable restructuring of the electric industry? Will the ratepayers, both residential and commercial, reap the benefits of competition and lower rates or will PSNH continue to benefit from what we do in this state senate? Will state government again make a bad deal, as I think we did in the 1989 rate agreement? Will we let the utility executives and the shareholders continue to profit at the expense of New Hampshire ratepayers? I think it's not enough for this state senate to merely embrace the idea of competition. I believe we've got to begin to protect ratepayers by doing much more. We have to address the myriad of other issues surrounding restructuring, and that is what SB 47 and SB 48 are meant to address. Now as Senator Rodeschin said in voting down these bills, the committee claims that these were issues that had already been addressed at the PUC. Well, I would argue that rather than addressing this problem over the last year, it has been exacerbated, not only at the PUC, but by the principles that we have adopted relative to restructuring. Let me just point out that what SB 47 does is to merely direct the PUC to adopt guidelines relative to how they are going to handle special contracts. Now it is true that they do have these guidelines with respect to economic development rates, but it is not the economic development rates that have been causing the problems. It is the retention contracts that they have enacted with various businesses based, I think, more on whether that business can go someplace else to get their power than whether there is a legitimate, equitable need at that business that is similar to a need on the part of any other business. I can tell you that what has happened in the last year is that we have more and more businesses, like Textron Automotive in Dover, who have been frustrated because they can't get a special contract approved by the PUC, while we have had Lockheed Sanders, down in Nashua, who can get a special contract. There is no rationale that, I think, the businesses that

I have talked to, can see as to why some businesses get them and some don't. That is the issue that I am trying to address in this legislation. We have also seen in the past few months the campaign for ratepayers' rights and the consumer advocate have filed a lawsuit in Merrimack Superior Court over this issue. The problem has not been solved, folks. The problem is getting worse. Unless we take some action today, it is going to continue to get worse. I think the same can be said about SB 48. In killing that bill, the committee said, "We don't need this legislation" which authorizes the PUC to authorize retail wheeling. It gives them the authority to do that. The committee said, "Well, we have already done that. That was adopted as part of the restructuring." Well, I challenge anybody on that committee to show me where, in the principles, that legislation has been listed. They can't do it because it is not there. It is not there and it is not in the version of HB 1392 that has been filed. PSNH says that one of the reasons we can't move to open competition is because the PUC has no authority over retail wheeling. That is exactly what this bill is designed to do. While I know that it is going to take some time to resolve this issue, I think that it is absolutely critical for us to begin to take a stand. It is time for us to do more than just study. It is time for us to take some action. To vote against SB 47 and SB 48, and to claim that you are concerned about electric rates, and favor competition in New Hampshire is nothing more than a shell game for the ratepayers of this state. I believe it is time for us to act, to show the people of New Hampshire that we are willing to do whatever it takes to promote competition and to lower electric rates in this state. So I urge you to vote against the committee report and to support passage of both of these bills. Mr. President, I am going to ask for a roll call on SB 47 and SB 48 when the time is appropriate. Thank you.

SENATOR RODESCHIN: Senator Shaheen, SB 533, which deals with special contracts, the title of which is prohibiting the recovery of certain costs associated with special utility contracts. Is that not a better bill than what is before us right now?

SENATOR SHAHEEN: Well, Senator Rodeschin, as you know, I am also the sponsor of SB 533. In fact, I think that bill addresses a totally different issue than SB 47, which is currently before us. You are right. What that bill addresses is whether or not a utility is going to be able to pass along the costs of those special contracts which, in PSNH's case are estimated at about \$45 million, whether they are going to be able to pass along those costs to the rest of the ratepayers at the end of the fixed rate period. So I think that is a very critical issue. But I also think in the meantime that we have got a situation where there is no equity with respect to how businesses are allowed to have special contracts. I think that is what SB 47 is designed to address. Now Textron Automotive, I think, is not going to be real concerned about SB 533 when that comes along, but I think that they are very concerned about this bill, because they don't feel like they are being treated fairly.

SENATOR RODESCHIN: Senator Shaheen, there are several special contracts issues before the PUC right now that they haven't acted on, and is not one of them UNH?

SENATOR SHAHEEN: Yes.

SENATOR RODESCHIN: Would you have a concern that if they come up with some guidelines for those businesses that are not choosing to

leave the state or plan expansions but have a guideline to follow that they won't hear that request for the special contract in those guidelines? Don't we need flexibility?

SENATOR SHAHEEN: Senator Rodeschin, I think the concern is that there is a perception among businesses that special contracts are not being issued with any kind of overall framework in mind, or with any particular guidelines, that people don't know what those are in advance. I think that is the problem, and that is what this bill is designed to address. I think that applies to the university system, and it applies to Lockheed Sanders, and it applies to everybody else. I think that we ought to say that they are going to be given based on certain criteria, and if you meet those criteria, you qualify, and if you don't, you don't.

SENATOR KEOUGH: I agree with much of what Senator Shaheen had to say, that is why I am surprised that we could reach such diametrically opposed conclusions about what to do with SB 47 and SB 48. In general, I would say the following. I agree with Senator Shaheen that there seems to be a fair amount of consensus, in fact, widespread consensus, that bringing about competition in the electric utility industry is something that we should all do. Now comes the hard part of my opinion. Now comes the part of distinguishing between what things, what proposals, have actual substance and what don't. I can assure you that we will hear throughout the debate on various specific proposals, that every vote in every decision is a litmus test. And if you choose to say, "No, I don't think that is a good idea." you will run the risk that you are anti-consumer, and that you are all talk, and that you are not for deregulation, and you are not for competition. Well, I am here to tell you that is baloney and to ask you all to put that aside and recognize you'll hear that and that you will be labeled in ways that are inappropriate, but that is why you are here. It is to do the right thing despite that. The right thing to do on SB 48, since we seem to be dealing with both of the bills at the same time, is to put it into perspective. This bill was introduced before the legislature had spent hundreds, if not thousands, of hours thinking about the way in which it wants retail wheeling to be implemented. At the time that SB 48 was introduced, there was really nothing more to say other than we would like the PUC to implement retail wheeling. But because we knew that there ought to be more to say, the bill was re-referred, and the legislature went about its business. Senator Shaheen, to her credit, took a leadership role, and, I think, did a very good job in helping to lead the legislature in doing its business well. So where we are today is that we have a lot to say about how the PUC should implement retail wheeling and we will be voting on a bill. In the hearing that Senator Shaheen attended, a work session on this bill, it was made clear that if the legal authority of the PUC is an issue that has not been addressed in legislation that is going to come before the senate, I, for one, will not vote for it unless that has been addressed, and I believe it will be. With respect to SB 47 and the issue of special contracts, I don't think that there is anyone here who wouldn't be happier if we didn't have to have special contracts, if we could move deregulation and competition forward on a timetable that would obviate the need for special contracts; but we can't. In the meantime, there are going to be special situations that do not lend themselves to precise prescriptions and descriptions in advance, that need to be dealt with for one reason. They need to be dealt with to keep jobs in New Hampshire, so that working men and women have a place

to go to work and so that those jobs do not leave to go to a different part of the country that has lower electric rates (TAPE CHANGE) and flexibility and the ability of the PUC to weigh the merits of those special situations and to act quickly. Because, once again, the legislature has felt compelled to micro-manage every situation that might come down the road. That is why I urge you to vote with the committee in finding SB 47 inexpedient to legislate and to vote with the committee in finding SB 48 inexpedient to legislate. Thank you.

SENATOR SHAHEEN: Senator Keough, you said that you wouldn't vote for a bill on restructuring that didn't give the PUC the authority to authorize retail wheeling. Is that correct?

SENATOR KEOUGH: What I said was that the legislature has a lot to say about retail wheeling that will be embodied in Representative Bradley's bill that comes over. If a deficiency in implementing retail wheeling truly is - I am not a lawyer, so I don't know if the legal authority does or does not exist, but if that is a problem, then we are going to need to address that in that bill, and give the PUC the statutory authority it needs to implement our wishes.

SENATOR SHAHEEN: Can you show me where in the bill that authority exists now?

SENATOR KEOUGH: No, I can't. But I believe that I have said in the event that it doesn't, then we will put it in there.

SENATOR SHAHEEN: So should I assume then that you are willing to rely on the House in addressing this issue? I guess my thought is that if the senate recognizes that this is an issue that needs to be addressed, then we should go ahead and do it and not wait for the House. What happens if the House kills that bill?

SENATOR KEOUGH: Well the House is in possession of that bill. I don't think there is any senator who introduced that bill into the Senate, HB 1392. If what you had proposed was an amendment to this bill, that effectively was that, that not only addressed that issue, but reflected all of the other things that the legislature has to say about retail wheeling, I would feel much differently about it. But, in fact, you haven't done that. I think this is only about one thing. This is only about giving you the opportunity to stand here before this body and label people as pro-competition and pro-regulation or anti-competition and anti-regulation, and I resent that and I will not stand for it.

SENATOR RUBENS: As I read over SB 48 I see that the commission may authorize competition if for the public good. Then may I read from the latest amendment to HB 1392 as introduced by Rep. Bradley? "The commission is authorized to require and shall require the implementation of retail choice among electric suppliers for all customer classes." This is in the version over in the House, which in my view is not an important TAPE INAUDIBLE and if it were, makes a clearer statement TAPE INAUDIBLE

SENATOR SHAHEEN: Well, I am delighted to have you point out that it did make it into the amended version of HB 1392 because I argued with the sponsors of the legislation that that should be a part of it. I guess that I would say what I said to Senator Keough earlier, and that is that if we think that this is something that needs to be done, I think we ought

to pass it out of the Senate, just as when we were dealing with education funding last session. The Senate wasn't willing to rely on the House to get the job done. We wanted to let our own version be passed and I would argue that that is what we should do in this case as well.

SENATOR RUBENS: TAPE INAUDIBLE.

Recess.

Out of recess.

SENATOR SHAHEEN (Rule #44): I don't know if this is exactly a Rule #44, but I think that it is important for me to say to the senators in this room that my concerns about this issue have to do with exactly that, my concerns about the issue, that I believe this is a critical issue that is facing the state of New Hampshire. I think that it is important for people to know where all of us stand on it and that is my intent in asking for a roll call today. I will leave it at that.

SENATOR COLANTUONO: This bill had an extensive hearing last year along with some of the other bills on similar subjects in our committee. I recall the debate on certain questions that I had about the bill, and we have to keep in mind that debates over bills aren't really about who is pro this or anti that. The debate on this bill, as on any other bill, is whether it is a good bill. I remember being opposed to the bill because I didn't think it protected our consumers sufficiently and I wanted the bill to be inexpedient last year, but the committee agreed to re-refer it, together with all of the other bills that we have on the schedule today, as a package to wait to see what happened with SB 168. SB 168 basically dealt with most of this issue, in what, I believe, to be a much far superior manner and right now we have statutory authority for the PUC to allow special contracts for business retention or economic development. But the concern I have with the language of this bill is that in simply granting the PUC the power to allow special contracts, it does not give the consumer the protection to say that when a business gets a special contract, allowing it to buy electricity cheaper than other businesses, who is going to pay the extra money? Under our traditional rate of return regulations, where a utility is entitled to collect its costs plus a reasonable rate of return, the only place that you can get it is from the other users of that electric utility, mainly consumers. I don't want to see that happen. I am leery of giving over power to any administrative agency, especially the PUC, on matters as important as this without specific, defined requirements as to exactly how they are going to approach the issue. And that is what is being done through our special committee, which nine senators and nine representatives spent all summer and fall on. And we are continuing to spend time on that. We are going to come up with a bill relating to the whole issue of restructuring electric utilities, where we are going to tell the PUC what to do in the best interest of our constituents. We are not simply going to hand over a blank check to them and tell them to do our job for us. That is why I believe that it is prudent for us to vote this bill inexpedient, continue the work on the study committee and the other legislation that is going forward, so that we can adequately address the issue of how to protect our consumers having to pick up the slack of the extra costs that will be generated when certain specialized businesses get special contracts.

SENATOR J. KING: I am a little confused here. Did I hear someone say that they're for the bill, that they agree with what is in there and that it should be done. But now it is going to go into a different bill. If it should

be done and there is an agreement on it, you don't have to have the whole bucketful. Sometimes you're better off addressing just one specific issue, and this one should be addressed specifically. The other one, SB 48, should be addressed specifically, too. Then if you want to go further, get another bill to do it. One question that I would have is how come this one here was not amended if it would incorporate some of those others? Does anybody have the answer to that? I would like to know.

Question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator Shaheen.

Seconded by Senator Cohen.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Russman, Danaïs, Delahunty, Keough.

The following Senators voted No: Rubens, Blaisdell, Larsen, Barnes, J. King, Shaheen, Cohen.

Senator Pignatelli Rule #42.

Yeas: 16 - Nays: 7

Inexpedient to legislate is adopted.

SB 48, an act relative to retail wheeling of electric power. Executive Departments and Administrative Committee. Vote: 4-1. Inexpedient to legislate. Senator Rodeschin for the committee.

SENATOR RODESCHIN: Thank you. SB 48 is really an unnecessary bill at this time. We had some discussion on SB 48 and there is a bill in the house which has several senators and House members on it. That is a much better bill than this one. Senator Shaheen's bill, SB 48, gives the PUC discretion on whether to implement retail wheeling. HB 1392 has specific guidelines, and that is the direction that we are going in. Senator Shaheen and three others, myself included, have spent since December of 1994 on restructuring the electric utilities from the PUC Business Roundtable. At the hearing this past Tuesday on the principles of HB 1392, the senate, eighteen republicans, support HB 1392. It is a much stronger bill. We do not need SB 48. It is not doing the job that I know that Senator Shaheen wants. So I would ask you to support the committee and make this discussion a little bit briefer. The committee urges inexpedient to legislate. One more thing, one senator on our committee that was on the dissenting vote, the only reason that senator voted in the dissenting vote was because she didn't want to be labeled as against retail wheeling.

SENATOR COHEN: What I am about to say could also apply to SB 47, but it is more addressed to SB 48. Over the years this body has had many, many opportunities to stand up for the ratepayers in the state of New Hampshire. We have had many opportunities and we have let them down, again, again, and again. Unfortunately, we have let the monopoly, the electric monopoly, ride roughshod over the state of New Hampshire. This is a fact. We all recognize this now, but we are missing an opportunity again. Here is another opportunity to take meaningful action. It is appropriate to authorize the PUC to take action to bring about competition. This bill works in concert with the House Bill. We shouldn't just leave it up to the House to take the action. This bill works in concert

with HB 1392. I would just try to make this point, that it is wrong to give partisan politics a higher priority than taking action on rate relief for our constituents. I urge you to vote ought to pass on this.

SENATOR RUBENS: I am going to need to vote in favor of ITL on SB 48. It is absolutely nonpartisan because, as most of you know, I'm rather aggressive on utility pricing issues and there are issues coming up which are real and which will create dissension. SB 48 allows discretionary authority to the PUC to allow competition and that is not what we want. HB 1392 says "shall" require the implementation of retail consumer choice of electric utilities. So HB 1392, as Senator Rodeschin has pointed out, is already supported by 18 senators and probably 24 Senators, and accomplishes more of what we need done. I think SB 48 actually weakens the statements or is a much weaker statement than we should be making about our expressions and desires for competition. So there will be opportunities for us if we want to be vigorous in demonstrating our commitment to lower electricity prices. There will be subsequent opportunities in the fine-tuning of HB 1392, and I have pointed out to a number of the Senators individually when the opportunities might occur. This is not the one. SB 48 would be weakening the statement of expression of intent. Thank you, Mr. President.

TAPE INAUDIBLE.

SENATOR CURRIER: TAPE INAUDIBLE

SENATOR SHAHEEN: As Senator Currier pointed out, in order to amend the bill, we would have to pass it out as ought to pass. I wanted to let the body know that what the amendment does is what Senator Rubens suggested, which is to put the language from HB 1392's amended version, which requires retail choice, which I do agree is stronger than the language in the current bill. I would urge the body to vote down the inexpedient motion so that we can amend it to do what I think is a stronger position on retail wheeling.

SENATOR KEOUGH: Senator Shaheen, the language in the amendment that you are talking about, is it part of the House Bill or is it the entire House Bill?

SENATOR SHAHEEN: No. It would only be that particular part of the House Bill that addresses that issue.

SENATOR BLAISDELL: Yes, Senator Shaheen, as one who always defends the integrity of the senate and as I listened to HB 1392 over in the House, was there any discussion at all on SB 47 and 48? Could that be incorporated in the senate bills so that we can send the senate's position out of this senate, rather than depend upon the 400 people across the aisle?

SENATOR SHAHEEN: Well, Senator Blaisdell, I can tell you that I talked to some of the House members who were working on HB 1392 and suggested that perhaps what we would want to do is to amend the principles, which are the major part of 1392, into SB 48 so that we could have it in both the Senate and the House. They didn't like that idea. They wanted it to be a House Bill as opposed to a Senate Bill.

SENATOR BLAISDELL: The House didn't like that bill?

SENATOR SHAHEEN: The House members that I talked to about that idea didn't like that idea. They wanted it to be a House Bill rather than a Senate Bill.

SENATOR BLAISDELL: Oh, they wanted it to be a House Bill. That is what I mean about the integrity of the Senate on this bill.

SENATOR KEOUGH: Senator Blaisdell, knowing that you are a great defender of the process, and certainly an expert in these matters, would it not be true if we were to do what you had proposed that we would effectively circumvent the public hearing process on 1392 before the Executive Departments and Administration Committee, which given that a lot of senators have been involved in the retail wheeling study committee that has come up with the principles etc., are you suggesting that we just act on it on the floor now and not have it go through the proper public hearing with the policy committee?

SENATOR BLAISDELL: I think it had a proper hearing, Senator Keough. What I am saying is in discussions with Senator Rubens and others in this room, they tell me they know so much about 1392 that certainly in the committee they could have amended it there.

SENATOR F. KING: Mr. President and fellow senators, I think that we need to make it clear that I, too, was one of the nine senators who sat through the process during the summer discussing retail wheeling. I would say that the senate was well represented. The chairman of the committee was a senator. All of the subcommittees, with one exception, were chaired by senators. HB 1392 is really an agreement among the full committee that worked together. It may be unfortunate that it has House Bill and not Senate Bill on it, but I think it is a cooperation, a great deal of cooperation, between senators and house members in which everyone had a chance to participate and the senators did participate and were well represented. This bill will come to the senate and there will be ample opportunity to change that; but we have agreed, as I understood the process, to focus on one bill that dealt with this very complicated issue and not muddle it up with a lot of little bits. This bill is comprehensive. It probably will be amended more and more and more, but we'll end up eventually, in both bodies, with one bill on which to take action. So I think that these bills were good bills. I fully support these bills, but it was agreed early on that they would be re-referred pending the outcome of the action through the summer. So I think we need to get rid of these bills, and need to focus our attention on HB 1392, which really is the issue. If we need to amend those, we will have ample opportunity to do that, but let's not be dealing with two handfuls of bills on an issue as important to our consumers as retail wheeling. Thank you.

SENATOR SHAHEEN: Senator King, I don't want to misunderstand what you're saying. You are not suggesting that this legislature not pass any other bills that address utility restructuring in this next session other than 1392, are you?

SENATOR F. KING: I am suggesting that we focus our attention on 1392, which is the result of a summer long-action by nine senators and nine representatives and hundreds of other people. That is where we should focus our attention and when we get bills . . . I would prefer to see amendments made to that bill, rather than have a lot of bills. If there are specific bills that need to be passed, then we would deal with them, but I think these bills have had their day, they had their day last year, they have been dealt with, and I think we should put them to rest in an honorable way.

SENATOR SHAHEEN: I would certainly hate to think that you are suggesting that we don't look at municipalization, which you and I are both sponsoring.

SENATOR F. KING: That is not what I said, Senator.

Committee report of Inexpedient to legislate is adopted.

SB 175-FN-LOCAL, an act allowing the city of Manchester to issue state-guaranteed bonds for a civic center. Economic Development Committee. Vote: 4-0. Ought to pass with amendment. Senator Johnson for the committee.

4222L

Amendment to SB 175-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

allowing the city of Manchester to issue state-guaranteed bonds for a civic center and relative to the financing of Manchester airport.

Amend the bill by replacing all after section 5 with the following:
6 State Guarantee.

I. The governor with the advice and consent of the council may award an unconditional state guarantee with respect to the principal of and interest on any bonds or notes issued pursuant to this act; provided, however, that no such guarantee shall be awarded for bonds or notes issued after June 30, 2000. The full faith and credit of the state are and shall be pledged for any such guarantee, and the total outstanding amount of the principal on such bonds or notes which has been guaranteed by the state under this section shall at no time exceed \$60,000,000. The governor, with the advice and consent of the council, is authorized to draw a warrant for such a sum out of any money in the treasury not otherwise appropriated, for the purpose of honoring any guarantee awarded under this section. If any state funds are so used, the state shall recover the amount of such funds, plus interest, by deducting such amount from any money payable to the city from the meals and rooms tax pursuant to RSA 78-A, or as provided in RSA 530.

II. Bonds or notes issued by the city under this act and bearing a state guarantee may be offered and sold at public or private sale, as the city shall determine, subject to approval by the state treasurer. The state's guarantee shall be evidenced on each guaranteed bond or note by endorsement signed by the state treasurer in substantially the following form:

The State of New Hampshire hereby unconditionally guarantees the payment of the whole of the principal and interest thereon of the within (bond) (note) and for the performance of such guarantee the full faith and credit of the State are pledged.

State Treasurer

III. In lieu of a state guarantee under this section, the state treasurer is authorized to borrow upon the credit of the state a sum not exceeding the total state bond guarantee authorized in paragraph I of this section, to make a loan or loans to the city for the purposes of this act, and issue general obligation bonds or notes in the name of and on behalf of the state in accordance with the provisions of RSA 6-A. The governor and council may impose such terms and conditions as they may deem appropriate

for any such loan; otherwise the terms and conditions of any such loan shall be determined by the state treasurer. Principal of and interest on the bonds or notes issued under this paragraph shall be payable in each fiscal year, first, from the additional increment and, second, from the city's stabilization fund and, third, from any other funds provided or pledged by the city or any other entity to finance the project; if such funds are insufficient, the amount required to make up any such insufficiency shall be payable from the general funds of the state. The total principal amount of bonds or notes of the city that may be guaranteed by the state under paragraph I of this section shall be reduced by the amount of bonds or notes issued by the state under this paragraph.

IV. In connection with the award of the state guarantee or issuance of state bonds in lieu of a guarantee, the governor and council may impose such terms and conditions as they may deem appropriate concerning the bonds or notes, the issuance of parity or subordinated bonds or notes, or the use, maintenance or operation of the civic center and the revenues therefrom. The city shall not request approval under this section by the governor and council or the state treasurer of an award of state guarantee or the issuance of state bonds in lieu of guarantee unless the city provides with such request appropriate evidence that it has received commitments from private or other sources, other than the city or the state, to provide at least 30 percent of the total estimated project cost. The terms and conditions imposed by the governor and council shall include provisions for reimbursement, with interest, by the city to the state if any state funds, other than the additional increments, are used to honor the guarantee or to pay the bonds issued by the state under the terms of this act. Any such reimbursement obligation may be either a general obligation of the city or a limited obligation, payable only from specified revenues and funds. Such terms and conditions may be contained in an agreement between the state and the city, to be executed on behalf of the state by the governor and the state treasurer.

7 Civic Center Commission Established. There is hereby established the city of Manchester civic center commission, hereinafter referred to as the commission, consisting of 5 members, 4 of whom shall be appointed by the mayor, with the approval of the board of aldermen, for a term of 5 years and 1 of whom shall be appointed by the governor; provided, however, that the mayor's initial appointees shall serve for terms of one, 2, 3, and 4 years, respectively. There shall be a gubernatorial appointee on the commission so long as any bonds or notes issued by the state or guaranteed by the state under the terms of this act are outstanding. The term of any such gubernatorial appointee shall be one year. The mayor shall annually designate one of the members of the commission to serve as chairperson. Members of the commission shall serve until their successors are appointed and qualified. Vacancies in the membership of the commission, other than the gubernatorial appointee, shall be filled by the mayor with the approval of the board of aldermen for the balance, if any, of the unexpired term.

8 Powers of Commission. The commission, on behalf of the city, shall carry out the powers granted in section 4 of this act, subject to the limitations set forth in section 2 of this act. In furtherance of its objectives, the commission shall adopt rules, regulations, and policies for the conduct of its business and meetings and the carrying out of its powers and duties under this act. The commission shall make an annual report to the board of mayor and aldermen.

9 Application of Receipts. All receipts from the operation of the civic center and any of its facilities shall be kept in a separate fund by the city

finance officer apart from other revenues and funds of the city and shall be used for the purpose of managing, maintaining, operating, promoting, repairing, and improving the civic center.

10 No Pecuniary Benefit. Members of the civic center commission established in section 7 of this act shall serve without compensation. Commission members shall not obtain any pecuniary benefit or interest in any action or activity of the commission or civic center, and shall not use their office for personal gain or act in a manner contrary to the public interest.

11 Certain State Guarantees; Manchester Airport. Amend 1989, 265:8 as amended by 1992, 8:1 to read as follows:

265:8 State Guarantee. In view of the general public benefits expected to be derived from the projects to be financed under this act, and their contribution to the social and economic prosperity of the state, the governor and council may award an unconditional state guarantee of the principal of and interest on bonds issued under this act, notwithstanding the provisions of RSA 162-I:10. In the case of bonds issued under this act, the statement required by RSA 162-I:8, III and the finding required by RSA 162-I:9, II(b)(4) shall be modified to reflect the award of any state guarantee. The full faith and credit of the state shall be pledged for any such guarantees, but the total amount of the principal of bonds guaranteed by the state under this section shall not exceed \$50,000,000 and any interest thereon; ***provided, however, that any state guarantee authorized under this section and not awarded prior to January 1, 1996, shall be rescinded.*** The governor, with the advice and consent of the council, is authorized to draw [his] a warrant for such a sum out of any money in the treasury not otherwise appropriated, for the purpose of honoring any guarantee awarded under this section. The state's guarantee shall be evidenced on each guaranteed bond by an endorsement signed by the state treasurer in substantially the following form:

The state of New Hampshire hereby unconditionally guarantees the payment of the whole of the principal of and interest on the within bond and for the performance of such guarantee the full faith and credit of the state are pledged.

State Treasurer

In connection with the award of a state guarantee, the governor and council may impose such terms and conditions as they may deem appropriate concerning the bonds, the use and operation of the airport facilities and the revenues therefrom, and reimbursement to the state if any state funds are used to honor the guarantee. Such terms and conditions may be contained in an agreement between the state and the city, to be executed on behalf of the state by the governor and the state treasurer and on behalf of the city by the authorized officers.

12 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a procedure for the city of Manchester to issue bonds with a state guarantee for establishing and operating a civic center. The bill also establishes a civic center commission which shall be responsible for the operation of the civic center.

The bill also rescinds state guarantees authorized but not awarded prior to January 1, 1996, for business finance authority (formerly industrial development authority) financing of the Manchester airport.

SENATOR JOHNSON: This is one of my folders which I have here for CenterPlex II. I have another folder which is just as big as this, which I've called CenterPlex I, so I have had a lot of material to work with over the summer. I want to thank the committee for arriving at a 4 to 2, ought to pass vote. Mr. President, the Senate Economic Development Committee has had several public hearings and open work sessions on SB 175, which was re-referred from the last session. I would like to take this opportunity to publicly thank the members of the Manchester CenterPlex Committee for not only providing the committee with an in-depth packet of information covering every aspect of the project, but also their personal participation as well in bringing the professionals in from all over the country to give us their background and past, as well as present, history on similar projects they have been successfully involved in. I would also like to commend the elected officials of Manchester for their vision and desire to support a major piece of the economic development of downtown Manchester and the Millyard, as well as bringing the state of New Hampshire into the 21st century with a multi-use facility that we can all be proud of. Mr. President, Senator Danaïs is the prime sponsor of SB 175 and I respectfully yield my time to him to address the nuts and bolts of the bills recognizing his untiring efforts to make the CenterPlex become a reality. Thank you.

SENATOR BARNES: Senator Johnson, did I hear during some of your hearings on this bill that the folks in Manchester would pull their project and go away if the Quadraplex in Raymond became a reality?

SENATOR JOHNSON: That statement is on the record.

SENATOR BARNES: Is there a timetable that the Quadraplex people in Raymond have to have to satisfy the folks in Manchester that they are for real, if Manchester won't become a reality?

SENATOR JOHNSON: In my opinion, Senator Barnes, I would say that date is January 31, 1996.

SENATOR BARNES: Why that date, Senator?

SENATOR JOHNSON: As I understand it, that is when the reality will take place, if all of the land that is involved in the Quadraplex will be purchased.

SENATOR BARNES: You and I heard the same comment. You are absolutely right. That, to me, is the drop dead date also on the Quadraplex land. Thank you very much.

SENATOR DANAÏS: Mr. President and my fellow senators, SB 175 is an economic development bill. The ultimate goal is the economic development of Manchester and the state of New Hampshire. It is an investment for today and tomorrow, because if, as a state, we do not invest in ourselves, no one will. I am asking for your support today to allow a community that has invested a lot of time and effort in analyzing a civic center to go forward with their plans. I am not here asking for your money. Manchester is a very well-managed city. Over the past year, on several occasions, the mayor and board of aldermen have voted by an overwhelming majority to allocate the rooms and meals tax incremental increase monies for the exclusive funding of the CenterPlex. The underlying question here is whether we should allow a community, Manchester in this case, to decide how it is going to spend its share of the rooms and meals tax. The money is there. And from every level of government in the state of New Hampshire, our estimates and projections are accurate and conservative. We cannot TAPE CHANGE I ask for your support. Thank you.

SENATOR COHEN: This obviously would have an effect on all of the taxpayers in the city of Manchester. I have to ask about the idea of a referendum to ask the people, since everybody is so directly affected in Manchester, why not put it to the vote of the people in the city of Manchester?

SENATOR DANAIS: We have discussed that at length and, basically, there were several reasons that we did not want to go to a referendum. The first reason is that with such a large project, a \$6 million project, the city of Manchester and the CenterPlex Committee, in their wisdom, thought or decided that there is no way that in 20 words or less, that you can ask the public to vote on whether they would like a CenterPlex or not, or such a large project. The second question was the example of the city of Concord. The city of Concord has been working on a municipal, public-use building project, namely the baseball complex, for a lot longer than the CenterPlex has been working. The city of Concord has pledged a certain amount of money, much, much less than the CenterPlex is asking for. They have had an organization that has been put into place for an awfully long time. One of the opponents wanted a referendum. The Concord Coalition felt that there was no harm. And again, it is a perfect example. It is very, very difficult to ask a citizenship to spend tax dollars. It is very difficult to put in 20 words or less what they want to do and Concord is a perfect example. I mean they lost the referendum by an overwhelming majority, even though they thought that they had a lot of support. We, the CenterPlex Committee and the town fathers, felt that they were elected to do a job and in their wisdom they have put together a proposal to go forward with something that will be the economic development of the city of Manchester. They felt that they were elected to do that and that every time that there is something that there is opposition to, to go to a referendum, is not the way to rule or to run a government. That was the main reason.

SENATOR COHEN: Given that the citizens of Manchester potentially stand to benefit from this, don't you believe that the people would, in fact, benefit from a referendum? Wouldn't they have that opportunity to see that they might benefit and be able to vote in favor of it? And just following up on the last question, why does it have to be 20 words or less?

SENATOR DANAIS: To further answer that, the referendum question has been in the limelight in the city of Manchester for an awfully long time. I think they already had a referendum. What I mean by that is that last fall they had the municipal elections. In the mayor's race, the presiding mayor, Mayor Wieczorek, was completely for this project and completely endorsed this project. His opponent was completely against this project. Now the people went to the polls last fall and voted and Mayor Wieczorek won by an overwhelming margin. That, to me, was the referendum to give him the ability and the stamina to go forward and do what he said he was going to do in his campaign, and that was to support the CenterPlex and have them get it built. To me, that was the referendum. I don't see the point of spending city dollars to the tune of \$30,000 to \$50,000 to have a special election now, to answer the same question that the people of Manchester had the opportunity to answer last fall, and which they did.

SENATOR RODESCHIN: Senator Danais, the amended version of SB 175, is it beneficial to the rest of the communities in the state because it guarantees Senator King's rooms and meals tax so that TAPE INAUDIBLE

SENATOR DANAIS: I am not sure I fully understand the question. In the amendment it gives the authorization to the city of Manchester to go forward and utilize the monies that the rooms and meals tax incremental increase will raise. They are exclusively allocating those monies to the CenterPlex. Is that what you wanted to know?

SENATOR RODESCHIN: Yes, but is that beneficial to the rest of the communities in the state because that was where the state has always
TAPE INAUDIBLE.

SENATOR DANAIS: Yes, I would agree with that statement.

SENATOR CURRIER: That question and the answer to it, scares the hell out of me. This by no means commits anything to any future legislature . . .

SENATOR DANAIS: No, it does not.

SENATOR CURRIER: . . . about changing the formula or the distribution of the rooms and meals tax

SENATOR DANAIS: No, it does not.

SENATOR LARSEN: I have a question. Being on the Concord City Council I have a question relating to the vote of the board of alderman to use the rooms and meals tax. In your earlier statement, you said that there was an overwhelming majority. Could you tell me what the vote was, I honestly haven't heard, but I thought that it was closer than overwhelming?

SENATOR DANAIS: The vote was 11 to 1 to allocate the rooms and meals tax incremental monies to the exclusive use of paying the bond payment for the CenterPlex.

SENATOR LARSEN: There was a question apparently about the referendum question, whether to put this to a referendum, and that there was a vote on that by the aldermen. Could you tell me what the vote on that issue was?

SENATOR DANAIS: Yes. The vote to deny the referendum question was a vote of 7 to 5.

SENATOR LARSEN: And was there a veto by the mayor at some point during the referendum question?

SENATOR DANAIS: No. The vote was in his favor. It was to deny the referendum and he won the vote 7 to 5.

SENATOR LARSEN: Thank you.

SENATOR PODLES: Senator Danais, could you tell me why this bill doesn't have a fiscal note?

SENATOR DANAIS: Because the monies that we are projecting to pay for the bond payment have already been allocated by the city of Manchester.

SENATOR DELAHUNTY (In the Chair): Senator Podles, this bill does have a fiscal note, on the latest version of the bill.

SENATOR SHAHEEN: I was one of the two people in the committee who voted against this bill. I am not going to address the merits of the issue because I think people have spoken to that at great lengths, not only this session, but last session as well. I voted against it because of what the testimony that I thought the committee got from Georgie Thomas rela-

tive to the potential impact on the debt ratios of the state. Having served on the Capital Budget Committee for the last five years and having had the state treasurer tell us on a regular basis that one of the things that the bond rating companies look at in terms of the state's bond rating is the debt-to-revenue ratio and how critical that is in terms of maintaining the good fiscal health of the state. I thought that her draft debt ratios raised questions about the financial feasibility of supporting this project at the level that is being requested. Let me just explain a little bit what I mean. I recognize that these are draft numbers, so they are not set in stone and they can change. The state treasurer pointed out that under a worst-case scenario in the period from 1996 to 2001, that given the \$60 million that is being asked for the state guarantee, and given the way the project is going to be funded through estimated increases or projected increases in the rooms and meals tax, that in the years 1999, 2000 and 2001 that we would be bumping up against the ten percent of debt-to-revenue ratios that the bond rating companies think create problems for states in terms of their fiscal health. Now under the best-case scenario, that ten percent warning signal would be hit in the year 1999 only and then the figure would drop down to 9.8 percent and 9.6 percent. But I think this raises serious questions about whether the state should be guaranteeing this project at the level that we are being asked to guarantee it. My other concern relative to looking at those numbers is that if we allocate the state guarantee for this project, we will not have any other state guarantee for any other project in the state between now and the year 2001. I think that raises questions about what future projects the state might want to support if we have already given away all of the money that we had available. So those were the concerns that I had when I voted against it in committee. I haven't heard those adequately addressed since that vote and given those concerns, I don't see how I can support this bill this morning. Let me just say one other thing about this. The reason that I recognized how critical an issue this is, is because in my first year in the senate, I came in with a proposal that would have provided the state guarantee for clean-up projects for municipal superfunds sites. I was asking for \$80 million in state guarantees and the state treasurer went through these numbers at length with me and with other supporters of that bill to explain why that put the state's bond ratio and debt ratios in jeopardy and why we needed to scale back that project so that we could make sure that we didn't put in jeopardy the fiscal health of the state. We did, in fact, do that. We scaled back the project from \$80 million in state guarantees to \$50 million in state guarantees because of those concerns. I think that is the concern that we are facing today as we look at the way this project is being funded. So given that, without any changes or further explanation on that, I am going to vote against it.

SENATOR JOHNSON: Are you suggesting in testimony that the state treasurer made any such comment in front of our committee with reservations?

SENATOR SHAHEEN: I think the state treasurer said that when we got into that 10 percent range that it created concerns among the bond companies about the debt-to-revenue ratios in the state. That is my recollection. I think that if you check the minutes that you will find that, in fact, is what she said. She didn't make any policy statement relative to the viability to this project. You are absolutely right. But my concern was based on what she had to say about those debt ratios.

SENATOR JOHNSON: Would you agree that the day of the testimony that we were under that ten percent with the figures that she gave us?

SENATOR SHAHEEN: No, I wouldn't, Senator Johnson. If we look at the numbers, it is very clear that we are not under. If we look at the projections for the future, as I have said, in the worst-case scenario, in the last three years of 1999, 2000 and 2001 were over the ten percent. In the best-case scenario in the year 1999 were over the ten percent.

SENATOR JOHNSON: Are those figures taking into account James River and also the surplus of the Manchester Airport?

SENATOR SHAHEEN: Yes, they are. That is part of the footnotes. It is clear that those numbers have been deducted before she got these debt ratios.

SENATOR FRASER: Senator, it is my understanding that if this bill is adopted by the senate, that it is going to be sent to Senate Finance. Because of my lack of background in this area, especially with this bill, having to do with bonding and where we are - this is all new to me - what you are suggesting this morning, wouldn't the Senate Finance Committee be better qualified, better versed to determine that, as to whether or not it would be in the best interest of the state to afford this bonding or guarantee?

SENATOR SHAHEEN: Well, Senator Fraser, I would say since we are dealing with bonding, the bill ought to be sent to the Capital Budget Committee rather than the Senate Finance Committee. I think they, in fact, have the best background in the bonding ratios of the state, but I wouldn't argue, and I certainly would vote to send it to Finance if that is what we are going to do today or vote to send it to Capital Budget or wherever, so that they can take a look at those issues in great depth.

SENATOR F. KING: Mr. President and members of the senate, as a member of the committee that heard the discussion on CenterPlex last year, what I am going to say is probably going to sound strange coming from me because there is probably no one in here that is any more parochial in their beliefs than I am because of where I come from, but, we are a state of 1,200,000 and in many ways that is a small community in lots of places. We need to look at some of these issues that we have before us that are important statewide, rather than just community by community. I think this project will benefit the entire state if it is built. I think that all of us - I go to Portland, Maine, I go to Worcester and I have been into Boston to attend events that would now be able to take place in New Hampshire. So I think that it is important that this project be built in this state at some point in time. I think that the city of Manchester has spent a lot of time on it and we were very impressed with the testimony that we heard in the committee. There was very little opposition through the process. I think they have done their homework. I think the state's commitment to this is relatively small. We certainly are not committing any state monies to this and the guarantees will be there in the final documents that are going to be prepared. I would urge that on this issue today that we pass this bill. Today is the day that we have to make a decision and Senate Finance will have a chance to look at it and it will come back here for another look. So I would encourage that we pass the bill and I was pleased to make a motion in committee of ought to pass.

SENATOR COHEN: In your statement you made a brief comment and I just wanted to make sure that I heard it right. It concerned me a great

deal. You said that should we go ahead and do this that the state's flexibility to guarantee other bonds between now and 2001 would be gone? Is that what Georgie Thomas said? That concerns me a great deal because there may be a pile of other issues that come up. Could just reiterate that point for me?

SENATOR SHAHEEN: Well, that was my understanding based on the debt schedules that she presented to the committee, that through the year 2001 this project would take up all of the flexibility to use the state guarantees.

SENATOR J. KING: As it stands now, I do not support this bill. In fact, I was on the committee to study it. We didn't do too much studying. The studying was done by the Economic Development Committee. I sat in on most of the meetings, if not all of them. I had made a decision earlier that it would be a great thing for the city of Manchester. It would be a great thing for the state of New Hampshire. It would be a great thing for our region, but there is money involved, a lot of money. I agree that Manchester should contribute the seed money, five percent or so, but not one hundred percent. It is good for the state and it is good for the region, and it might be good for Manchester, but when it comes to contributions to the fund, there is silence out there, which means that Manchester stands alone on the debt. All of it. I have decided that before we move forward on CenterPlex that I will provide a truth in lending disclosure to the citizens in my city of Manchester. CenterPlex will cost Manchester \$101,473,712.50 over a 25-year period. They will say that it is only a \$60 million bond. The city of Manchester has got to pay the interest on that bond and it might even be more than that. They have got to pay the whole thing. They are obligated to pay the whole thing. If it goes kaput, they still have to pay the whole thing. The state is guaranteeing your bond, but they are going to guarantee that they are going to get their money back, too. There are no qualms about it, that the good thing would be to have a CenterPlex. I do not want to put myself in a position where I am going to go along with a hundred percent of the debt, \$101,473,712.50, for the city of Manchester. I cannot support taking this money away from the city for this project. Each year during the life of the bond for this project, it will cost the city of Manchester as high as \$4.3 million a year and the lowest bond payment would be \$3 plus million, and that is in 1996. That is a lot of money and where is that money coming from? You say the rooms and meals tax. That rooms and meals tax is money that is sent to Manchester like it is sent to Berlin, Milford and West Buttercup. They all get theirs and it is put in the till. That is money available for use to the city of Manchester. As I said, \$4 million plus is to be taken out of that each year to pay for this debt. And I noticed that my good cousin from the north country said, "the state's commitment to this is small." It certainly is small. It is zero, zero, zero, but no figures before the zeros. Now if they put two and put five or six zeros after that, I think that we would certainly go along with it. Where is everyone that said that they want a CenterPlex in New Hampshire and that it would be good for us? Put your dollars down and put your money where your mouth is. Put your money down there. Put \$20 million or \$25 million or \$30 million if you want to. It is good for the state. They will get all kinds of rooms and meals tax out of it, all kinds. The quote is \$546 million. Why can't they contribute something to it? This is not money to be paid by the state or some private party. As it stands now, there are no private people involved.

They have a private source fund and the source fund is what I call users fund. Once it is built there is \$500,000 a year for the rent, there is \$2 million or so for the name on the building. There is another million for something else. The money that is dedicated to this project is from the anticipated increase in rooms and meals taxes distributed to the cities and towns. This money should not be taken away from the citizens of Manchester to fund this project. I strongly favor a referendum. Let them ask them. We talk about it here, I can remember some of my colleagues where they want to put anything and everything in a bill and I think the bill passed. The school board and some of the other places, if the bond is over \$50,000 or \$50 million - I am not sure - it goes to a regular election and they vote on it. Economic development is critical for the future of Manchester, I agree. I live it. I have lived all of my life in Manchester, practically, not in New Hampshire, but most of it in Manchester. I have seen the city dying. I have seen it come back and I have seen it go down. To take this amount of money out and to pledge it to this is just too much. This project should receive the support of the entire region. What has been presented today would be paid for by the taxpayers of the city of Manchester. Don't forget, if the thing goes down, they still have the bill. The only guarantee in this project is some will pay and that is the 30 percent that I told you about before. The other question is that it becomes an authority. I have an allergy to an authority, a real strong one, because it could become the most powerful thing in the city or the state and we have had some authorities and they are difficult to deal with, or a commission, if you want to call it that. This bill in itself will pay no taxes to the city of Manchester, so we have to depend on getting something out of it. There is a tax structure there now which will be gone. Local control, we hear it all of the time. Let the people who are affected make the decision. I agree, particularly when they are going to spend \$101 million of our money in the city of Manchester. We talked about binding the next legislature. I agree with my colleague, Senator Currier. You can't bind the next legislature; you can't do it. They can change it. If you could do that, you would never have changed the rooms and meals tax from 40 percent down to 3 or 4 percent. That was done by the legislature. Originally, of the rooms and meals tax, 40 percent of the total income went back to the cities and towns. Two years ago, it was less than five percent. So they can change it. They changed the business profits tax. They have changed several of them. That is the legislature. That is their prerogative. There is no guarantee, whatever we are trying to guarantee. It isn't there. One of the other things is that the people of Manchester are confused about just what is happening. I think I mentioned this to a couple of people on the committee. Don't get me wrong. I would love to see one in Manchester, but I don't want to see it there at the expense that it is going to cost us or anywhere near that expense. In talking to a few people about the center, they replied that it was a great idea. They were all for it. When I asked them if they knew how it was going to be paid for, they replied, "Oh, the state is going to pay for that with state bonds." They read about state bonds in the paper and they are all for it because they think that the state is going to pay for it. But when you start to tell them where the money is going to come from, they sing a different tune. And that is the thing that we would have to do if we did have a referendum, to make sure that the facts are known as to where the money is coming from and what it would be in dollars. And although some of these have

been successful, there are many, many out there that have failed. I can list them as well as the other side can list the ones that did well. Yes, I am for a CenterPlex in Manchester. We do need help here. We are the biggest city in the state. About a tenth of the population is there. We have more problems there than any other city or town in the state because of the size, because of the different areas. There is more crime. There is more everything there. No matter what it is, we have it. I agree with it. But I would like to see the state and some of the regions as far away as Berlin, and right down into Nashua and over to the Seacoast, decide that it is probably worth something to their town or to their city, and throw a few dollars this way. This is not a commercial. This is a fact. Throw some of the dollars this way. And then I would like our big state here to come in and throw \$20 or \$30 million into it. Then I would like to know how many of you would vote for the bill? How many of you would vote for the bill if it was a \$40 million stake? I would. Because it is good for the state. I asked everyone of you, put an amendment onto this bill or I will put it on for you. Put \$25 or \$35 million into it from the state of New Hampshire, to make sure that we have a CenterPlex that we are going to be proud of. Then we can think about really going and moving fast. I think the ones that are here and my colleague, Mr. Danaïs, would agree. I don't think that he would turn down \$25 or \$30 million from the state. I know that my mayor from Manchester would never do that, never. So with that, I would answer any questions that you may have. I am for a CenterPlex, but not for the way that it is being funded.

SENATOR BLAISDELL: At the risk, John, of protecting your allergies, I am going to support the other Senator King and his speech. I don't if Louie was still here then, but I do remember going back when James River came in and we took a great hit on putting that bond issue up in the north country to keep the James River Corporation up there. We had a lot of testimony on that. I don't believe, Senator King, that they ever used that money, but it is still there and they still employ people, even though they have sold the company. I supported that as I support this. I truly believe in the CenterPlex for New Hampshire. Not so much for the city of Manchester, although I believe that's the place it should be, because, I believe, Senator King, that we, the rest of the cities and towns in the state of New Hampshire, will participate. I know that people from my area and all of the other senators' areas will go there, and when we do that, we will be bringing dollars to the city of Manchester and we will also be bringing gas money. We will be buying rooms and meals there. I really, truly believe, that this is in the best interests of the state of New Hampshire. We got the same grief on the airport in Manchester, by the way. We got a lot of grief on that and it is one of the finest airports in the east. I think they are finding that out now, that it is probably one of the finest airports in the east. It is open and it is running and those people over there did an excellent job. Maybe you think that I am prejudiced; maybe I have been indoctrinated by Derek Sanderson, my good buddy from the Bruins, who really truly believes what it will bring to the state of New Hampshire, if you have the American Hockey League franchise. I would hope that Concord would have the baseball team. Tom Rath would have a great thing if we could get a baseball league here in the state and bring it to Concord. I think it would be great. **TAPE CHANGE** I'm not so sure . . . really if you took a hard look at it all, it really raises the whole idea of having that CenterPlex in Manchester. I think that's

the right place for it. It has the population and it has the access to the highways and everything like that, but we will participate. John, I realize what you are saying. I know that you are saying to me that the schools are short \$4 million dollars and they need money for that. There are a lot of things in all the cities, but we can't do that. We have to look ahead in the state of New Hampshire. We are going to be here for awhile. Let's look ahead and try to get a plan for our state. I think this is the way to do it. Maybe I am prejudiced because we're going to bring a hockey team - I am a hockey fan, as Senator Fraser is. We have talked about this a great many times. So I ask you to support it. It can come to Finance and we will take a hard look at it; but as Senator Fred King mentioned before, you know, the James River Corporation came in and they asked for that bond issue and we gave it to them because we thought that it was a great investment in the north country. Just like we thought, a couple of days ago, some bills that we put in were another great investment. I ask you to support this bill. John, I don't mean to offend you at all and I hope that you are wrong. I hope that it's a big success. I think that we, as a state, should get behind a project like this and invest in it. I ask you to support this bill.

SENATOR JOHNSON: To follow up on Senator Blaisdell's comments. I think there is an important piece of information that's been left out and I would like to give that information to the rest of the body. We have a gentleman by the name of Godfrey Wood who now has the hockey franchise, the Portland Pirates, over in Maine. Godfrey has been to many of our meetings and he has indicated to us that if, in fact, this becomes a reality that he is prepared to put another franchise which is available to him in Manchester. That franchise would cost him a million dollars and there will be an up-front fee, I believe, of \$100,000, which is non-refundable, and he has to make that decision by June 30. So that would insure 42 nights of hockey in that building, right off. I believe that that would be for a minimum of ten years. So I think that is an important piece of information that I wanted to leave with the body. This man has been involved in hockey all of his life. He is a Harvard graduate and he had a short stint with the Detroit Redwings and he has been very successful with his franchises. He also made the statement that if Manchester did not become a reality, that he would not, if he had the franchise, put that franchise in Raymond if the Quadraplex became a reality because he doesn't feel that's the market for it. Thank you.

SENATOR PODLES: I am not against a CenterPlex or a civic center or whatever you want to call it. I am against the funding mechanism in this legislative proposal. It would tie up Manchester's share of the rooms and meals revenue for 25 to 30 years for only one project, the civic center. It sets up a dangerous precedent. What would stop other cities from asking for the same thing? The legislature envisioned the rooms and meals revenue sharing to reduce property taxes and to improve infrastructure in cities and towns. I represent the three largest wards in Manchester, the wards that pay the high taxes. They are not against the civic center, but they are looking for tax relief. The taxes are very high in Manchester. I am also against the state guarantee of bonds of \$60 million. It could easily jeopardize the state bond rating. It will push the state bonding to the limit. There are two things that we should be concerned about, the state guarantee of revenue flow over and above the guarantee of debt. This establishes a new category of contingent debt which doesn't fit into

other categories; otherwise it would reference a statute. I didn't see the fiscal note - I have it in front of me now - but when I looked it over yesterday, I realized there was no fiscal note with the bill. We now have it. Manchester needs a shot in the arm. No one can deny this. There are some that believe that they should have hockey at any price, but unfortunately, somebody has to pay for it and the taxpayers don't want to do this. The project needs more private funding. Thirty percent is not enough. It should be at least 50/50. If civic centers are so good, how come they cannot attract commercial vendors. I will be introducing an amendment which will be the 50/50 split and I would urge you all to support it. Thank you very much.

SENATOR DANAIS: I would just like to address a couple of concerns that my fellow senators brought up. First, as far as the bonding capacity is concerned, Georgie Thomas who is our state treasurer, did testify in front of our committee. The figures that Senator Shaheen quoted were correct, but let me assure the senators in this room that Georgie Thomas did not, at any time, testify that this would jeopardize the state bonding position. She did not tell the committee that with the funding of this CenterPlex that it would put the state of New Hampshire in jeopardy. All she said is that it would max out the state of New Hampshire in the capacity for its bond rating to remain the same. That was a concern to Senator Shaheen and it was a concern to me. After the public hearing I sat down with Georgie Thomas on several occasions to address that. I asked her that in the event that something else down the road wanted to come forward, could the state of New Hampshire bond it? Her reply was that she was not concerned with that because of the following facts: the BFA has \$45 million of outstanding guarantees that they are not using and possibly will not use because of the banks being more involved with the consumers at this point; The PDA, The Portsmouth Development Authority, has \$50 million of bonding capacity which is not being utilized at this time, and her projections are that they will not use that at this time or in the foreseeable future. Those two things alone are \$95 million worth of bonding. I do not foresee any entity or any project coming to the state of New Hampshire that is going to need \$95 million for bonding; but if there was such a need, there is the possibility to get it through those two entities which are still on the books, state guarantees that are not being utilized. One of the other things that the committee did with regards to bonding is that James River has \$25 million of unused guarantees which they will never use and we are going to take that off the books. The city of Manchester Airport Authority has \$9.3 million worth of bonding guarantees which will never be used because the project is done. That is also going to come off the books. And in the foreseeable future we are going to sit down with Georgie Thomas and see if we can eliminate some of the guarantees that are on the books that are not being utilized. So I did want to present that and I don't want to have the impression that the state of New Hampshire is jeopardizing their bond position, because I don't think that it is, and the committee would have never voted to push this through legislation if it would jeopardize that. So I wanted to mention that. The second point that I would like to mention is on Senator John King's testimony when he said that Manchester stands alone on the debt. And that is exactly true. The city of Manchester, through its elected officials, has voted on separate occasions to endorse this project and they are standing alone on the debt, and they are guaranteeing the payment of this debt

through the monies that come from the state of New Hampshire. We are not here today asking for \$20 million. We don't want \$20 million of state monies, because nobody would ever vote for it. The city of Manchester realizes that it has to vote on its own and it has to invest in itself. We, the city of Manchester, through their elected officials, have decided that this is the best avenue for economic development for the state of New Hampshire and they have allocated the money to pay the debt. They are not asking you for money to pay their debt. A couple of other things, local control. The city of Manchester has got a municipal government that is in place and is voted on every two years. They have decided that this is going to be on their agenda for economic development. As far as the commission, the commission that is going to deal with this would be very, very similar, if not duplicated, to the commission that runs the Airport Authority. The only thing I can say regarding that is that it is a very well run commission and the city airport is a perfect example. I believe that those are all of the questions that I have. One thing that I would like to emphasize is this local control issue. The city of Manchester has made a decision, on many occasions by an 11 to 1 vote, to endorse the CenterPlex Committee. I believe it should be left to local control.

SENATOR SHAHEEN: Senator Danaïs, I just wanted to clarify something that you said, because I would agree with you that Georgie Thomas at no point in her testimony said that this project would endanger the bond rating of the state. But would you agree with me that what she did point out is that when debt to revenue ratios get in the range of ten percent and over, that is one thing that the bond rating companies look at in terms of the state's bond rating, that she also pointed out that while the PDA and the Business Finance Authority may not make use of that money in the time frame indicated, it still stays on the books and it is still part of what the bond rating companies look at when they are assessing our debt to revenue ratios, and, in fact, that the \$25 million for James River and the \$7.3 million for the airport have already been taken out before these figures were developed?

SENATOR DANAÏS: Yes. That is exactly what Georgie Thomas said. The other thing that the bonding companies look for is what the state as well as what the communities are doing to invest in themselves, so that when the bonding companies come to the state of New Hampshire and see the bonding ratios, they also look at the infrastructure of the state as well as the communities. So they will look at the city of Manchester and they will see that they are investing in themselves, so that will have a positive effect on the rating. So, yes, they do. The other thing, with the 10 percent - yes, you are right - I don't think that she said that the bonding companies look at the ratings, but at 10 percent it is, in her recommendation, the maximum the state would probably bond in order to preserve their current rate. But I think that she is looking at the best interests of the state.

SENATOR SHAHEEN: My best recollection of her statement is a little different. It was that when we reached that figure, it would put in jeopardy the state's bond rating. I would like to ask a further question and that is, if you could explain to me in the second paragraph in the fiscal note, the statement, "The expenditures shown reflect the state's election to issue general obligation debt at the maximum authorized level."

SENATOR DANAIS: The only thing that I can say to that is that the maximum authorized level would be the \$60 million that has been authorized or that is being asked for in our bill. That is the only thing that I can see; it would be that \$60 million.

Amendment adopted.

Senators Rubens and Podles offered a floor amendment.

4272L

Floor Amendment to SB 175-FN-LOCAL

Amend the bill by replacing section 4 with the following:

4 Additional Powers Granted to the City.

I. Subject to the limitations contained in section 2 of this act, as provided in section 8 of this act and in addition to any other authority the city may have under any other law or otherwise, the city shall have all powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including, without limiting the generality of the foregoing, the power to:

(a) Enter into contracts, arrangements, and agreements with other persons in all matters necessary or convenient to the operation of this act including, without limiting the generality of the foregoing, leases of the facilities to be constructed and operated hereunder, contracts for planning, management, administration, and operation of the facilities to be constructed pursuant to this act, and to execute and deliver instruments necessary or convenient to the exercise of its powers under this act; provided, however, that no contract authorized pursuant to this section shall be of more than 25 years in duration.

(b) Obtain insurance and to enter into agreements of indemnification necessary or convenient to the exercise of its powers under this act.

(c) Establish, adjust, collect, and abate charges for services, facilities, and commodities furnished or supplied by it.

(d) Acquire and take and hold title in its own name, by purchase, lease, lease-purchase, sale and leaseback, mortgage, exchange, gift or otherwise, or to obtain options for the acquisition of, and to dispose of, any property, real or personal, improved or unimproved, tangible or intangible, or any interest therein and to exercise its powers of eminent domain in furtherance of the purposes of this act; provided that any such exercise of its powers of eminent domain shall be subject to the limitations set forth in section 2 of this act.

(e) Maintain, repair, operate, enlarge, and improve a civic center and facilities incidental and related thereto, to investigate, design, construct and acquire improvements and additions to such civic center; to engage in activities, programs, and projects on its own behalf or jointly with other public or private entities; and to provide for the cost of such activities from grants, the proceeds of bonds or notes issued therefor, or from other revenues available to the city.

II. Notwithstanding paragraph I, any entity with which the city contracts to operate the civic center shall guarantee in the contract to the city and the state that the parent corporation and its subsidiaries, successors, and assigns shall make up any net losses occurring from the operation of the civic center from the entity's own resources. In the opinion of the state treasurer, the operating entity needs to be creditworthy. "Creditworthy" means an investment grade credit of A or better from a recognized rating agency.

AMENDED ANALYSIS

This bill establishes a procedure for the city of Manchester to issue bonds with a state guarantee for establishing and operating a civic center. The bill also establishes a civic center commission which shall assist in the operation of the civic center. The bill requires the entity chosen to operate the civic center to make up any net losses from civic center operation from its own resources.

The bill also rescinds state guarantees authorized but not awarded prior to January 1, 1996, for business finance authority (formerly industrial development authority) financing of the Manchester airport.

SENATOR RUBENS: I would like to say that I am inclined toward the concept of limited government and to accomplish the notion of limited government, it means that I have to be philosophically opposed to state involvement in activities that are more properly the providence of the private sector, which are certainly entertainment facilities, which this is or, secondarily, the providence of state and regional interests. I live in a part of the state which is fairly distant from Manchester. I am certain that there could be some justification to my area of the state for this, but this really is a provincial matter and again, if one is philosophically supportive of the concept of limited government, then one has to look at these types of things with considerable scrutiny. The state's taxpayers are put at risk to the tune of \$60 million, and it's clearly stated as such, and the state has increased its guarantees to the extent that the state leverage is increased and this does impact upon future potential guarantees and borrowings. Nonetheless, in order to help support those who very much want this project to be supported in Manchester, I proposed the following amendment. If you look at page two of the amendment, Roman II at the bottom of the page, that embodies the substance of the amendment, which is simply to require those two contracting entities that would be operating the facility to do what they said they would do - both of them have apparently said this, although I haven't seen it written anywhere - to guarantee the operating losses of the facility. And so what we are doing is we are proposing an amendment here which would back up and simply have the state echo what the two proposed contracting operators have said to the city of Manchester, which apparently was instrumental in turning you folks around and saying yes, this is safe for us; and in a parallel fashion the state saying okay, we will accept that offer if you put it here in writing. Again, with these entities guaranteeing from their own corporate assets that they will not allow there to be an operating loss, the entity has to be credit worthy, a credit rating of A or better and the entity is pledging its parent and subsidiary corporate assets, successors and assigns to that guarantee, so it is a pretty serious matter. That is the amendment.

Floor amendment adopted.

Senator Podles offered a floor amendment.

4267L

Floor Amendment to SB 175-FN-LOCAL

Amend the bill by replacing paragraph IV of section 6 with the following:

IV. In connection with the award of the state guarantee or issuance of state bonds in lieu of a guarantee, the governor and council may impose such terms and conditions as they may deem appropriate concerning the bonds or notes, the issuance of parity or subordinated bonds or

notes, or the use, maintenance or operation of the civic center and the revenues therefrom. The city shall not request approval under this section by the governor and council or the state treasurer of an award of state guarantee or the issuance of state bonds in lieu of guarantee unless the city provides with such request appropriate evidence that it has received commitments from private or other sources, other than the city or the state, to provide at least 50 percent of the total estimated project cost. The terms and conditions imposed by the governor and council shall include provisions for reimbursement, with interest, by the city to the state if any state funds, other than the additional increments, are used to honor the guarantee or to pay the bonds issued by the state under the terms of this act. Any such reimbursement obligation may be either a general obligation of the city or a limited obligation, payable only from specified revenues and funds. Such terms and conditions may be contained in an agreement between the state and the city, to be executed on behalf of the state by the governor and the state treasurer.

SENATOR PODLES: I would like you to take a look at line 10 on the front page, where it begins with the words "commitments from private or other sources, other than the city or the state, to provide at least 50 percent of the total estimated project cost." I am just changing the number from 30 to 50. I think that is very important. I think that they can get people who can contribute. In fact, late last night I received a telephone call from one of my constituents in Hooksett and he was delighted to hear that they are planning a civic center in Manchester. He is very interested and has given me his name, address and telephone number and he is willing to help with the rest of the money to reach the 50 percent and Mayor Wieczorek, I will give that name to you. I would urge you all to support this. I think that we really need this.

SENATOR FRASER: Senator Danaïs, this is a dramatic change in the original proposal. Could you give me your feeling about the 50 percent versus 30 percent and would this actually hamstring this program if it was adopted?

SENATOR DANAIS: It is a dramatic change. Quite frankly, the Economic Development Committee, as well as the CenterPlex Committee, spent the last year analyzing ways to raise money. We have had consultants come in from all over the country to inform us of the different ways to raise monies. I don't think that we could raise 50 percent. We have spent the last four months fine tuning a plan that would satisfy the interests of the public that said that 100 percent public funding was too much. We have fine tuned it and a 70 - 30 partnership is in total agreement with the city of Manchester's elected officials, as well as the CenterPlex Committee, as well as the Economic Development Committee. I oppose the 50/50 plan because I don't think that we can achieve that. It does not meet the criteria of such a center and I don't think that we could ever achieve a 50/50 partnership.

SENATOR RODESCHIN: Senator Podles, where I am serving on this Economic Development Committee and all of the meetings that they have had and worked on, why did this constituent that you referred to wait until just recently to call you and tell you that he is going to make up the difference between the \$30 million, you know, with us going through this whole process?

SENATOR PODLES: Senator, actually it was just in the paper a couple of days ago, so people read about it; but before that they didn't know about

it. They just read the 30/70 and that is why he called. I think that this would be more palatable to the people of Manchester if you tell them that it is 50/50 and this is what they expect from this.

SENATOR JOHNSON: I would like to speak to the floor amendment that Senator Podles has offered. I would like to make a suggestion that where this is an eleventh and a half hour amendment that until we can have a firm commitment to the additional 20 percent from one of her constituents, I would say that we should defeat this amendment. And if, in fact, this is for real that when it gets over to Senate Finance we have this person come before Senate Finance with the documentation that they would, in fact, cough up the other 20 percent. Thank you.

SENATOR J. KING: I agree to the extent that she, Senator Podles, is moving in the right direction. I don't know whether she is moving to the right or to the left, but she is moving in the right direction, and if she keeps on going she will get my support. Thank you.

SENATOR PODLES: I want to correct what has just been said. I certainly didn't mean to say that this man would give up 20 percent and give you 20 percent. I said that he would help with the fund raising. So I want to correct that. I would suggest that this go to Finance and let Finance deal with it. I have asked the senators to pass this on to Finance. You are passing everything else so pass this on to Finance also.

Floor amendment failed.

Referred to the Finance Committee (Rule #24).

SB 49, an act expanding the requirements for information to be included in least cost energy plans submitted by electric utilities to the public utilities commission. Executive Departments and Administrations Committee. Vote: 5-0. Inexpedient to legislate. Senator Stawasz for the committee.

SENATOR STAWASZ: I am pleased on behalf of the Executive Departments and Administration Committee to accommodate the sponsor's wish. Since Senator Shaheen would like this inexpedient to legislate, that is the committee's recommendation, 5 to 0.

Inexpedient to legislate is adopted.

SB 73, an act relative to real estate brokers liens. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Stawasz for the committee.

4201L

Amendment to SB 73

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Commercial Real Estate Broker Lien. Amend RSA by inserting after chapter 447 the following new chapter:

CHAPTER 447-A

COMMERCIAL REAL ESTATE BROKER LIEN

447-A:1 Definitions. In this chapter:

I. "Commercial real estate" means any real estate other than real estate containing one to 4 residential units. Commercial real estate shall not include single family residential units such as condominiums, townhouses, manufactured housing, or homes in a subdivision when sold,

leased, or otherwise conveyed on a unit by unit basis even though these units may be a part of a larger building or parcel of real estate containing more than 4 residential units.

II. "Principal broker" means the individual broker, including the broker designated by a corporation, partnership or association, whom the New Hampshire real estate commission holds responsible for the action of licensees who are assigned to such individual broker.

III. "Real estate" means and includes leaseholds or any other interests or estates in land and business opportunities which involve any interest in real estate. It also includes the sale and resale of time-share units and manufactured housing units, affixed to real estate.

447-A:2 Principal Broker's Lien. If a principal broker is entitled to a fee or commission pursuant to a written contract signed by the owner of commercial real estate, or the owner's duly authorized agent, pertaining to the sale or lease of said commercial real estate, then the principal broker shall have a lien upon such commercial real estate in the amount of the fee or commission.

447-A:3 How Secured. Any principal broker's lien may be secured by attachment of the commercial real estate upon which it exists. In the case of a sale, the attachment must be recorded prior to the recording of the deed conveying or transferring the commercial real estate. The lien shall attach as of the date and time of the recording of the writ of attachment in the registry of deeds of the county in which the commercial real estate is located. The lien shall not relate back to the date of the written contract.

447-A:4 Priority. Prior valid recorded liens, mortgages, encumbrances and other interests shall have priority over a principal broker's lien. Such prior recorded liens, mortgages, encumbrances and other interests shall include, without limitation:

I. A valid mechanic's lien claim that is recorded subsequent to the principal broker's notice of lien but which relates back to a date prior to the recording date of the principal broker's notice of lien.

II. Prior recorded mortgages securing revolving credit lines or future advances, or both.

III. Prior recorded construction mortgages securing construction loans.

IV. Leases or notices of lease, or both.

447-A:5 Escrow of Disputed Amounts. Whenever a writ of attachment securing a principal broker's lien has been filed with the registry of deeds, an escrow account may be established from the proceeds of the sale of the commercial real estate in an amount equal to the amount of the attachment. The option to establish an escrow account, as provided for in this section, shall not be cause for any party to refuse to close the sale of the commercial real estate. The escrowed funds shall be held in escrow until the parties' rights to the escrowed moneys have been determined by written agreement of the parties, a court of law, or other process as may be agreed to by the parties. Upon funds in the amount of the claimed lien being placed in escrow, a release of the claim for lien shall be recorded forthwith at the registry of deeds in the county where the real estate is located by the principal broker claiming the lien. Once the principal broker has provided the release, the principal broker shall have an equitable lien on the fund which were or shall be held in escrow. The parties are not required to follow this escrow procedure if alternative procedures which would allow the transaction to close are available and are acceptable to the transferee, the transferor, and the principal broker. If the

proceeds from the transaction are insufficient to release all liens claimed against the commercial real estate, including the principal broker's lien, then the parties are not required to follow this escrow procedure.

447-A:6 Discharge of Lien. Except as provided in RSA 447-A:5, when a principal broker's lien is satisfied, the principal broker shall cause a discharge of the lien to be recorded within 30 days after such lien is satisfied in the registry of deeds of the county in which the commercial real estate is located.

2 Effective Date. This act shall take effect 60 days after its passage.

SENATOR STAWASZ: SB 73 is an act to allow real estate brokers a lien for a commission due in certain commercial transactions. The committee recommends ought to pass as it was amended, 5-0.

Amendment adopted.

Ordered to third reading.

HB 486-FN, an act relative to lease agreements for state equipment. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Rodeschin for the committee.

4202L

Amendment to HB 486-FN

Amend RSA 6:35 as inserted by section 1 of the bill by replacing it with the following:

6:35 State Leases. The treasurer, with the approval of the governor and council, may enter into leases of equipment at the request of any state agency or department for a term not exceeding 10 years. For purposes of this section "leases" shall include lease-purchase, sale and lease back, installment sale or other similar agreements to acquire such equipment from time to time for various agencies or departments; provided that funding for such equipment leases was specifically approved by the legislature in a budget. Payment obligations under any lease entered into under this section shall be subject to annual appropriation and shall not be treated as debt obligations of the state. The treasurer may execute any related documents, including any document creating or confirming any security interest retained by the seller or lessor of the equipment.

AMENDED ANALYSIS

This bill authorizes the state treasurer, with the approval of governor and council, to enter into leases of equipment at the request of any state agency or department for a term not to exceed 10 years; provided that funding for such equipment leases was specifically approved by the legislature in a budget. Federal tax information returns for tax-exempt governmental obligations resulting from such leases must first be submitted to the state treasurer for review and execution.

SENATOR RODESCHIN: This bill allows the state treasurer to act relative to lease agreements entered into by the state. The bill will give agencies the ability to use purchasing power of the state to get the best rates possible. An interesting point during the summer when the committee was working on that was that DRED was looking into getting into a lease agreement which had never been before the Finance Committee during the budget process. In the amendment there is a safeguard. The language will say, "... provided that funding for such equipment leases was specifically approved by the legislature in a budget." The committee would urge you to support the bill as amended. Thank you.

Amendment adopted.

Ordered to third reading.

SB 7-FN-A, an act establishing a kindergarten reimbursement program, and designating certain revenue to fund public kindergarten and making an appropriation therefor. Finance Committee. Vote: 7-0. Ought to pass with amendment. Senator Lovejoy for the committee.

4255L

Amendment to SB 7-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to kindergarten aid programs, the establishment of certain kindergarten aid funds, and making an appropriation therefor.

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose.

I. This bill establishes a kindergarten incentive program to be administered by the department of education. The purpose of this incentive program is to provide state assistance to districts which presently operate kindergarten to ensure the continuation of said programs, and to encourage districts which do not provide kindergarten to make kindergarten available.

II. The kindergarten incentive program shall consist of 3 categories of assistance. One category shall provide kindergarten construction and renovation aid to assist districts in meeting the costs of construction and renovation of classroom and building space utilized by a kindergarten program. The second category shall provide grants to encourage districts which do not provide kindergarten to implement kindergarten. The third category shall provide financial assistance to districts which provide kindergarten. An alternative kindergarten aid program shall be provided for school districts electing not to participate in the kindergarten incentive aid program.

2 New Subparagraphs; Kindergarten Incentive Aid Program Fund and Kindergarten Assistance Aid Fund. Amend RSA 6:12, I by inserting after subparagraph (kkk) the following new subparagraphs:

(lll) Moneys deposited in the kindergarten incentive aid program fund established in RSA 198:15-m, IV.

(mmm) Moneys deposited in the kindergarten assistance aid fund established in RSA 198:15-q, II.

3 Kindergarten Construction and Renovation Aid Program Established. The subdivision heading preceding RSA 198:15-i and RSA 198:15-i is repealed and reenacted to read as follows:

Kindergarten Construction and Renovation Aid

198:15-i Kindergarten Construction and Renovation Aid Program Established.

I. There is established a kindergarten construction and renovation aid program through which the department of education shall partially underwrite construction and renovation costs associated with kindergarten programs.

II. Those districts eligible to receive construction and renovation aid under RSA 198:15-j shall receive an increase in school building aid for kindergarten construction over that to which they would otherwise be entitled in an amount equal to 20 percent of the annual amount of the payment of principal for the cost of construction or renovation of construction made necessary by the kindergarten program and utilized for kin-

dergarten. A school district shall be eligible to receive increased aid for kindergarten construction and renovation so long as such district maintains a public kindergarten program.

III. In the event such kindergarten program ceases to exist within 10 years of the initial kindergarten construction and renovation aid payment, any school district receiving kindergarten construction and renovation aid under this subdivision shall pay back to the state 50 percent of the difference between the kindergarten construction and renovation aid received under paragraph II and the amount of building aid to which the district otherwise would have been entitled.

IV. If such kindergarten program is not operational within 2 years of the date of the vote to establish the kindergarten program, any school district which becomes eligible to receive construction and renovation aid under RSA 198:15-j, II shall pay back to the state 100 percent of the difference between the kindergarten construction and renovation aid received under paragraph II and the amount of building aid to which the district otherwise would have been entitled.

4 Kindergarten Incentive Aid. RSA 198:15-j is repealed and reenacted to read as follows:

198:15-j School District Eligibility for Kindergarten Incentive Aid.

I. Any local school district which provides a kindergarten program shall be eligible to receive kindergarten construction and renovation aid to maintain such program.

II. Any local school district which does not provide a kindergarten program shall be eligible to receive kindergarten construction and renovation aid if the local school district votes to implement such program.

5 New Subdivisions; Kindergarten Incentive Aid, Kindergarten Assistance Aid, and Alternative Kindergarten Aid; Report to Board of Education. Amend RSA 198 by inserting after section 15-k the following new subdivisions:

Kindergarten Incentive Aid

198:15-l Kindergarten Incentive Aid.

I. There is established a kindergarten incentive aid program through which the department of education shall contribute grant funds on a per pupil basis to districts which do not provide kindergarten for costs incurred or to be incurred by that district, when those costs are related to the performance of feasibility studies, the development of implementation plans, or the investigation of options and alternatives relative to providing kindergarten. In order to be eligible for such aid, the activities shall be conducted for the purpose of studying the benefits of kindergarten or providing a forum for public opinion and input on kindergarten.

II. Kindergarten incentive aid shall also be available to assist districts which vote to implement a kindergarten program for kindergarten start-up and program costs.

198:15-m Eligibility for Kindergarten Incentive Aid.

I. A district which has not provided a kindergarten program and which has not voted to implement a kindergarten program prior to January 1, 1996, may submit an application for kindergarten incentive aid to the department of education.

II. Any local school district which has not provided a kindergarten program prior to January 1, 1996, shall be eligible to receive kindergarten incentive aid if the local school district votes to provide a kindergarten program and submits a plan to the state board of education for its approval. Within a reasonable time period following approval of the plan,

the district shall receive a one-time payment of kindergarten incentive aid in the amount up to \$2,400 per kindergarten pupil. The department of education shall determine the number of kindergarten pupils for which payment shall be made by multiplying the eligible district's average daily membership in residence in grades one through 8 by .125.

III. For purposes of receiving kindergarten incentive aid and kindergarten assistance aid under the provisions of this subdivision and the provisions of RSA 198:15-q and RSA 198:15-r, "to provide a kindergarten program" means:

(a) To operate a kindergarten within an approved public school maintained by the district;

(b) To tuition pupils, other than special education pupils, to a kindergarten operated by another public school district in this or, when distance or transportation make it necessary, in another state; or

(c) To send tuition pupils to a non-sectarian, non-public kindergarten approved for attendance and program purposes by the state board of education.

IV. There is hereby created in the state treasury a kindergarten incentive aid program fund which shall be nonlapsing. The fund is continually appropriated to the department of education to be expended for the purposes set forth in this subdivision. Moneys in the fund which are not currently needed to meet the obligations of the department of education under this subdivision shall be deposited with the state treasurer to the credit of the fund, and may be invested as provided by law. Interest received on such investment shall be credited to the fund, and shall be used by the department of education to pay administrative costs.

198:15-n Applicant Agreement for Kindergarten Incentive Aid for Implementation Purposes. Any school district which has voted to implement a kindergarten program and receives kindergarten incentive aid for implementation purposes shall agree to implement its kindergarten program within 2 years of the date of the state board of education's approval of the plan. If the approved plan for kindergarten is not implemented within 2 years, the school district receiving the aid shall pay back to the state board of education 100 percent of the amount received for kindergarten incentive aid. If the district to which incentive aid for implementation purposes has been provided ceases to provide a kindergarten program within 10 years of the date of receipt of the kindergarten incentive aid payment, 50 percent of the amount of implementation aid shall be repaid to the state.

198:15-o Administration of Kindergarten Incentive Aid Program. The department of education shall be responsible for administering the kindergarten incentive program and shall perform the following functions relative to the administration of the program:

I. Assist school districts in developing applications for funding.

II. Assist districts in developing plans for providing kindergarten programs.

III. Perform periodic reviews of the kindergarten programs which receive kindergarten incentive aid.

198:15-p Rulemaking. The state board of education shall adopt rules, under RSA 541-A, relative to:

I. Procedures necessary to administer this subdivision.

II. Criteria and procedures for determining eligibility for participation in the kindergarten incentive aid program.

III. Criteria for approving kindergarten plans submitted by districts which do not operate kindergarten.

IV. Criteria and procedures for reviewing and approving plans for providing a kindergarten program. In establishing criteria for developing and approving plans, the state board of education shall require a local district which wishes to send tuition students to a non-public school to document that it has considered all reasonable means of utilizing a public school program.

Kindergarten Assistance Aid

198:15-q Kindergarten Assistance Aid.

I. There is established a kindergarten assistance aid program through which the department of education shall provide financial assistance to districts which provide a kindergarten program.

II. There is hereby created in the state treasury a kindergarten assistance aid fund which shall be nonlapsing. The fund is continually appropriated to the department of education to be expended for the purposes set forth in this subdivision. Moneys in the fund not currently needed to meet the obligations of the department of education under this chapter shall be deposited with the state treasurer to the credit of such fund, and may be invested as provided by law. Interest received on such investment shall be credited to the fund, and shall be used by the department of education to pay administrative costs.

III. Subject to the availability of funds, the department of education shall pay annually to each school district which provides a kindergarten program, kindergarten assistance aid in the amount up to \$150 for each kindergarten pupil who resides in that district and attends a public kindergarten or a private kindergarten approved for attendance and program purposes by the state board of education.

198:15-r Rulemaking. The state board of education shall adopt rules, under RSA 541-A, relative to the administration of the kindergarten assistance aid program.

Alternative Kindergarten Aid

198:15-s Alternative Kindergarten Aid.

I. In lieu of participating in the incentive aid and assistance aid programs provided in RSA 198:15-l - 198:15-r, a school district which does not provide a kindergarten program may submit to the commissioner of education a request for state aid for a local kindergarten plan or other proposal for learning preparedness.

II. Without limitation, a school district plan under this section may be based upon publicly operated facilities or contractual arrangement with privately operated facilities, voucher programs, or a combination thereof.

III. Requests for alternative kindergarten aid shall be submitted at times established by the commissioner of education. A request shall be first approved by the school board or district voters and shall contain, at a minimum, the following information:

- (a) A description of the kindergarten plan or other proposal;
- (b) An explanation of how the plan will prepare children resident in the district to be ready to learn at the first grade level;
- (c) A comparison of the cost of state aid under the local plan with the cost of state aid were the district to participate in the programs provided in RSA 198:15-l - 198:15-r; and
- (d) Any other information required by the commissioner.

IV. A school district approved for alternative kindergarten aid under this section shall be eligible to receive grants in an amount no greater than it would otherwise be eligible to receive under the kindergarten incentive aid or assistance aid programs.

198:15-t Report to Board of Education. On or before a date established by the commissioner of education, the school board of each school district that does not provide a kindergarten program and that does not participate in the kindergarten incentive aid or alternative aid programs provided in this chapter shall submit to the state board of education a report describing the school district's plan for preparing children resident in the district to be ready to learn at the first grade level, or shall state that the district elects not to develop such a plan.

6 Termination of Kindergarten Incentive Program and Establishment of Kindergarten Fund.

I. The kindergarten incentive aid program and the kindergarten assistance aid program established in section 5 of this act shall terminate effective June 30, 2000. Any funds remaining in the kindergarten incentive aid fund and the kindergarten assistance aid program fund as of June 30, 2000, shall lapse to the kindergarten fund established under paragraph II of this section.

II. Effective July 1, 2000, there is created in the state treasury a kindergarten fund which shall be nonlapsing. The fund is continually appropriated to the department of education to be expended for the purposes set forth in this section. Moneys in the fund not currently needed to meet the obligations of the department of education under this section shall be deposited with the state treasurer to the credit of such fund, and may be invested as provided by law. Interest received on such investment shall be credited to the fund, and shall be used by the department of education to pay administrative costs.

III. The kindergarten fund shall be used to help support kindergarten attendance for those students who do not otherwise have access to a kindergarten program. The state board of education shall adopt rules, under RSA 541-A, relative to the eligibility and method of payment for such assistance.

7 Repeal. The following are repealed:

I. RSA 6:12, I(III), relative to moneys deposited in the kindergarten incentive aid program fund.

II. RSA 6:12, I(mmm), relative to moneys deposited in the kindergarten assistance aid fund.

III. RSA 198:15-l - 198:15-r, relative to the kindergarten incentive aid program and the kindergarten assistance aid program.

8 Appropriation.

I. There is hereby appropriated to the department of education the sum of \$1 for the kindergarten assistance aid program, and \$2,700,000 for the kindergarten incentive aid program and the alternative kindergarten aid program, for the fiscal year ending June 30, 1997, for the purposes of this act.

II.(a) Funding under paragraph I shall be provided from the following sources in sequential order, each source under subparagraph (1)-(3) to be exhausted before the next is drawn upon:

(1) Sweepstakes revenue in excess of legislative appropriations.

(2) Funds made available through operating and program efficiencies within the department of education.

(3) Federal funds.

(b) Any remaining funds required to fund the appropriation in paragraph I shall come from general funds. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

9 Effective Date.

I. Section 7 of this act shall take effect June 30, 2000.

II. The remainder of this act shall take effect July 1, 1996.

AMENDED ANALYSIS

This bill establishes kindergarten incentive program, a kindergarten assistance aid program, and an alternative kindergarten aid program to be administered by the department of education. The purpose of these programs is to provide state assistance to districts which presently operate kindergartens to ensure the continuation of said programs, and to encourage districts which do not provide kindergarten to make kindergarten available. It also amends the current kindergarten incentive program established in 1994, by making it a construction and renovation aid program.

SENATOR LOVEJOY: This bill establishes a kindergarten incentive program. The purpose of these programs is to provide state assistance in districts which presently operate kindergartens to insure continuation, to encourage districts which do not provide kindergarten to make kindergarten available, and it also amends the current kindergarten incentive programs established in 1994 by making it a construction and renovation aid program. Mr. President, I would like to speak briefly, if I may. Fellow senators, this is a good moment, in my view, here in the state senate, because this is truly a bipartisan bill. All factions, to my knowledge, have had a hand in framing this bill. Senator Larsen, certainly through your hard work and your consistency, you've kept this subject high in the minds of everyone here. Senator Blaisdell certainly has been a big help in Finance. Senator Colantuono has been, as has Senator Larsen, consistent in his pushing and in his proposals. Senator Carrier, Senator Keough, Senator Barnes and Podles, in fact, the whole Senate Finance Committee and the whole Senate Education Committee, last year, have had a part in this. Governor Merrill has been strong and forthright in his commitment to make kindergarten available so that all students may enter school ready to learn. Now this bill, and we realize this, and we recognize this, I think all of us, this bill doesn't satisfy everyone completely. Some would want more. Others would want less. But what it does do, and this is the important thing, what it does do, and for the first time in the state of New Hampshire, is put the state of New Hampshire on record behind kindergarten with an assistance program. Other things it does do is it encourages districts to establish kindergarten. It protects local authority. It provides for the established kindergarten private industry now existing in our state. And it also provides for a voucher system, should the local districts decide that's their preferred plan. That was all conducted within the authority of the Department of Education. This bill, fellow senators, passed the Senate Finance Committee unanimously and I hope that we can report it out of the senate and send it on to the House with a 24 to nothing vote showing our strong support for a kindergarten program for the state of New Hampshire. Thank you.

SENATOR LARSEN: I, too, think that the Senate Finance Committee deserves praise for keeping this bill to study and for actually studying it, for taking the time to look at this thoroughly. I contemplated, as we came through with this amended version, how I should look at this kindergarten bill. You can look at it as a glass half empty and you can look at it as a glass half full. My kindergarten amendment proposed to the Senate Finance that we have a \$5 million kindergarten program of both incentive monies to encourage districts that don't have public kindergar-

ten and a basic level of ongoing financial support to those districts that have been funding kindergarten over the years, but have been frequently tempted to drop kindergarten because budgets are so tight out there. The amended SB 7 that you have before you today as you know, is a \$2.7 million program, half my proposal and half that proposed by the Governor at the \$5 million level he said he would support. This amendment provides incentive monies only to six districts which the Department of Education estimates might begin a kindergarten program next year. It offers nothing from the state in ongoing support for kindergarten except for the first start-up year. Yet I am still a person who tends to look at this as a glass half full. We are talking today about funding \$2.7 million more in kindergarten than we have ever talked about before. I called Senate Research and found that, in fact, there has never been a bill to fund kindergarten that passed in the New Hampshire Senate, so this is a first step. We are talking, too, today about passing a bill that keeps kindergarten discussion alive for this session that would have otherwise died as a re-referred bill. But let us commit today to keeping the focus on New Hampshire's children for this session. We know kindergarten is good for the five-year-olds of this state. We know it is good for the educational system in reducing the drop-out rates. We know it is good for our long range economy. Let us commit to continuing our efforts to find additional funding for a real kindergarten support in the months ahead. The greatest danger today is that we pat ourselves on the backs and say that we finally funded kindergarten. This is only a beginning, my friends. We started out with a \$17 million promise. We were promised a start-up program in November of 1995 of \$5 million. The \$2.7 million Senate program for six districts does not meet the needs of those whose budgets are so stretched that a one-year, one-time boost is enough to keep them funding kindergarten year after year. Today we are taking a baby step. It keeps us walking in the right direction. So let's finally run with it in the months ahead and work with the house to produce a graduate program before this June that we can all be proud of. Let us fund kindergarten and let us work with the house to make it happen, even bigger than what we are doing today. I thank you all for this start and I will be offering a floor amendment because I think that there is one point that we need to discuss after this. Thank you.

Amendment adopted.

Senator Larsen offered a floor amendment.

4271L

Floor Amendment to SB 7-FN-A

Amend RSA 198:15-q, III as inserted by section 5 of the bill by replacing it with the following:

III. Subject to the availability of funds, the department of education shall pay annually to each school district which provides a kindergarten program, kindergarten assistance aid in the amount up to \$300 for each kindergarten pupil who resides in that district and attends a public kindergarten or a private kindergarten approved for attendance and program purposes by the state board of education.

SENATOR LARSEN: The floor amendment that you will be receiving in a few minutes is a very, very small amendment. It is very short in language. It addresses the issue of ongoing support for those kindergartens that currently operate programs, those school districts which over the years have been putting forth their best efforts to keep that kindergar-

ten program running. I believe that it is a state requirement. I think that the state should be in there supporting the school districts that have been producing kindergarten over the years. The current amended SB 7 talks about a \$150 level of support for a child for kindergartens currently in existence. We all know that \$150 is not going to keep anyone in the business of kindergarten. This amendment would raise that fund to say up to \$300 for each kindergarten pupil, subject to the availability of funds. I realize that even in the current amendment we funded only the incentive program. But I believe that we should be making a statement. This is our opportunity today to say that those of you who have been providing kindergarten over the years, should be encouraged to do so. Don't drop kindergarten when your budgets are tight. We, from the state, believe that this is so important that we are going to put our money where our mouths are. This is your opportunity to put your money where your mouth is, to put \$3 million as the level we would ideally like to fund for a child at our kindergarten program for the 1996 session. We need to work, as I told you earlier, to find that money over these next few months, but let us start out with a program that we are all proud of and \$150 per child is not going to help anyone. This \$300 level is estimated to be at one third of the cost of supporting a kindergarten child. It costs about \$1,000 a year to operate a low-cost kindergarten once it is up and running and supplied with supplies. So \$300 is at least a healthy start and I think we ought to give a healthy start to kids in this state. I ask you to vote for this floor amendment.

SENATOR COLANTUONO: On behalf of the Senate Finance Committee, I rise to oppose this amendment. This figure was discussed in the Senate Finance Committee. The amount of \$150 was chosen because, first of all, that was the amount put forward in SB 173 last year, and also, because the reason that we rejected the doubling of that amount was because we believe that our first priority is to get kindergarten programs up and running in those districts that don't have them. This per-pupil amount is to be given statewide to every district and to the extent that districts already have kindergarten programs and have had them for many years, we think that is a lower priority. So we want every dollar of the scarce resources we have to be put towards the incentive program and not to this ongoing assistance aid. As Senator Larsen said, the fact of the matter is that we don't have the money to fund this anyway. You can put any figure in there that you want, but we do want to try and fund this in subsequent bienniums and we want to have the right figure in there, so to the extent that you agree that it is more important to spend our scarce resources on incentives, rather than to just giving the money back to districts, many of whom already have it. Senate Finance, I believe, if not unanimously, then by a large vote, rejected the concept of this \$300 figure and we would urge you to defeat this amendment.

SENATOR BLAISDELL: Of course I was one in Senate Finance, and I am not quite so sure that Senator Lovejoy wasn't with me, when we went from \$5 million down to \$2.7 million and that is how we agreed on this. And certainly I agreed that I wanted to get something in the works and get it over to the House. But again, after we voted on this, I received a call from a small town of Winchester that it is going to lose \$650,000 next year in foundation aid. This is the town that has \$1 million in special education funds that they have to put out. The average wage down there is about \$12,000. This is in the southernmost part of the state of New Hampshire, on the Massachusetts border. Of course you know that I was

redistricted out of my own district up north, down to Winchester, Hinsdale and Swanzey, and I like those towns very much, but you can't put me any further south, folks, because I am either going to be in Brattleboro, Vermont or Holyoke, Massachusetts. So as I speak to you republicans, if you think about redistricting, you can't put me any further south. So if you want to put me north again, I will go, but they spoke to me about this matter and it is a serious thing. Senator Lovejoy, I am going to be talking to as the chairman of the Education Committee. This is going to devastate that town. They are saying, yeah, you are going to give us a little money in kindergarten, but look what you've done to us. There is a great concern about that. So, again, I would support Senator Larsen's floor amendment because I think that - I am really sorry that we even have to put figures in it - we should get it over to the house. We have until May to decide. Look at the funding mechanism in this bill. It's to take the excess from Powerball. It is to have shifting around the Department of Education by Commissioner Twomey who came in and said - she never gave a figure, but she did say that she would try to shift some things around in the Department of Education. I don't know where she is going to get it because there is not a lot of funds that she can shift around. Then, of course, there are some federal funds that supposedly are going to be involved. I guess I would just try to caution the Finance Committee not to be in a hurry. We are going to be here to May or June and probably things will get better and we may be able to find some other mechanism. Maybe, Senator King, we might pass your bill that would bring the state \$50 to \$150 million in the north country and maybe give that part of it to kindergarten as you suggested; although I guess that there is not much hope in that. I did want to get those out quick. I hope that they keep them until May anyway, so that we can get a good shot at what revenues we can have. This is what we should be looking at. We shouldn't be hurrying. I want to get the bill over to the House, too, but I think that Senator Larsen has a good point and I hope that you will at least support her amendment and get it over to the House. Let's work. Let's find out what we have in May, what kind of revenue we have, so that we can fund a real kindergarten program, which everyone in this room, including the corner office, if he is ever in this state, has stated. Okay? Thank you.

SENATOR PIGNATELLI: I was recently talking to my neighbor, Senator Colantuono, about where this money would be coming from and I can't, coming from Nashua, let this pass without raising some objections. Nashua has been counting on Powerball money, all Powerball money, to be added into the Augenblick formula so that we would at last be getting some money from this formula. I now learn from Senator Colantuono that anything above \$47.5 million in sweepstakes money will be going into this fund to fund this program, which would put Nashua further and further away from receiving its fair share of education money. Although I am a supporter of kindergarten and I am going to support Senator Larsen's amendment because Nashua has been struggling with kindergarten and has been supporting it, I am not going to support the funding source, which moves Nashua further and further away and is getting bupkis in terms of getting their fair share of Augenblick formula.

SENATOR J. KING: Senator Pignatelli, how much money does Nashua get at the present time?

SENATOR PIGNATELLI: Bupkis.

SENATOR SHAHEEN: Senator Pignatelli, don't you think that if the state accepted about \$9 million in the Goals 2000 money that we might have some money that we could free up so that we could help support kindergarten and also Nashua at the same time?

SENATOR PIGNATELLI: You know, Senator Shaheen, that's one of my biggest disappointments in the last Senate session, that we wouldn't look beyond our . . .

SENATOR LARSEN: Senator Blaisdell, is it not true in Senate Finance that the legislative budget office analysts gave us a breakdown of how much it would cost to fund kindergarten at this \$300 level per student, to the existing program, in addition to funding the incentive program? The total was \$4.29 million of state revenues for this session.

SENATOR BLAISDELL: That is right. That is what they gave us.

SENATOR LARSEN: So we are under the \$5 million that we had thought the governor was supporting and we are under this number if we adopt this amendment. We are not excessively spending on kindergarten.

SENATOR BLAISDELL: That is right.

Question is on the floor amendment.

A roll call was requested by Senator Currier.

Seconded by Senator Pignatelli.

The following Senators voted Yes: F. King, Blaisdell, Pignatelli, Larsen, J. King, Shaheen, Cohen.

The following Senators voted No: Gordon, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Barnes, Russman, Danaïs, Delahunty, Keough.

Yeas: 7 - Nays: 17

Floor amendment fails.

Ordered to third reading.

SB 96-FN-LOCAL, an act designating certain taxes and revenue to fund public kindergarten. Finance Committee. Vote: 7-0. Inexpedient to legislate. Senator Currier for the committee.

SENATOR CURRIER: The action that we have just taken basically takes care of this particular bill and that is the reason for the inexpedient to legislate motion.

SENATOR LARSEN: I won't hold you up on this, but I would only add that what you are rejecting right now is the plan that the governor proposed, with the money he proposed. It was put together using language that was in his SB 173 that Senator Lovejoy introduced on the governor's behalf last session. So what we are rejecting today is what I thought was the minimal level of support that we could get for kindergarten support this session. We have gotten a small program instead, I just will be voting no on inexpedient because I have trouble voting down something which is so good.

Inexpedient to legislate is adopted.

SB 6-FN, an act relative to frivolous inmate litigation. Judiciary Committee. Vote: 3-0. Inexpedient to legislate. Senator Podles for the committee.

SENATOR PODLES: SB 6, relative to frivolous inmate litigation and also the next bill, SB 147, relative to reimbursement of the cost of care by inmates and making an appropriation, are both inexpedient to legislate. The substance contained in both of those senate bills provided a basis for HB 532, now enacted as chapter 296 of the Laws of 1995, so now it is law.

Inexpedient to legislate is adopted.

SB 147-FN, an act relative to the reimbursement of cost of care by inmates and making an appropriation therefor. Judiciary Committee. Vote: 3-0. Inexpedient to legislate. Senator Podles for the committee.

SENATOR PODLES: Mr. President, I did both of the bills at the same time because they involved the same kind of bill.

Inexpedient to legislate is adopted.

HB 510-FN, an act relative to the sale of fireworks. Judiciary Committee. Vote: 6-0. Inexpedient to legislate. Senator Podles for the committee.

SENATOR PODLES: Mr. President, all of the members were present and unanimously voted 6 to 0 on this bill as inexpedient to legislate in view of the fact that the issue addressed in the bill would be incorporated into the proposed house legislation.

Inexpedient to legislate is adopted.

SB 124-FN-LOCAL, an act requiring the state to reimburse municipalities which have university system facilities for educating public school children who live in campus housing. Public Affairs Committee. Vote: 6-0. Inexpedient to legislate. Senator Rubens for the committee.

SENATOR RUBENS: The purpose of this bill is made moot. The primary municipality in which there is a state university campus, Durham, has apparently, I have been informed, reached a settlement. The UNH trustees and the town of Durham have reached an agreement no longer necessitating any state action on this matter. Therefore, the Public Affairs Committee recommends inexpedient to legislate.

SENATOR SHAHEEN: As the prime sponsor of this bill, I asked that the committee kill the legislation as was agreed to as a result of negotiations that have actually been going on for about eleven months between the town of Durham and the University System of New Hampshire. I think all of the people involved in those negotiations should be commended for coming up with a compromise that addresses what has been the source of a tremendous amount of conflict and controversy within the town of Durham and between the town and the university. So I think what is being proposed in the negotiation package that the town and the university have come to is a reasonable way to address the problem so that the town of Durham is no longer paying the total freight for those students without getting any property tax money to offset those costs. There is, however, one more hurdle that this mutual understanding faces, and that is a vote by the full board of trustees of the University System. The package has been endorsed by the executive committee of the board. I have to say to you, in the Senate, that the town and the university have done exactly what we asked them in the senate committee in the legislature to do. We re-referred this bill so that they could have time to come to an agreement. I think that it is very unfortunate that at this eleventh hour in the process, the governor has inserted himself into this issue and is making it a partisan issue. I think what we've

got is government working at its best to come up with a solution to the problem, and I think that it should be allowed to go forward without any partisan intervention at all.

SENATOR STAWASZ: Your hope that there will be less political rhetoric, I take it, will affect your floor speeches in the near future?

SENATOR SHAHEEN: Senator Stawasz, the issue, with respect to SB 124, is one that I think we were very clear about in this Senate. We directed the parties involved to go back and come to an agreement to see if they couldn't resolve the issue on their own, without having it come through the legislative process. They have done that and I think that is a benefit to everyone involved.

Inexpedient to legislate is adopted.

HB 594-FN-LOCAL, an act requiring employers to report to the department of employment security the names of individuals hired or rehired, which information is used by the division of human services in child support enforcement and making an appropriation therefor. Public Institutions, Health and Human Services Committee. Vote: 5-0. Inexpedient to legislate. Senator Danaïs for the committee.

SENATOR DANAIS: The Health and Human Services Committee has voted inexpedient to legislate on this bill, due to the costs of such legislation. Thank you.

Inexpedient to legislate is adopted.

SB 43, an act clarifying the types of public utility property which are subject to local property taxes. Ways and Means Committee. Vote: 7-0. Inexpedient to legislate. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill is being made inexpedient to legislate at the request of the prime sponsor, Senator Fred King.

Inexpedient to legislate is adopted.

SB 166-FN-LOCAL, an act enacting the Uniform Interstate Family Support Act (UIFSA). Public Institutions, Health and Human Services Committee. Vote: 4-3. Inexpedient to legislate. Senator Wheeler for the committee.

SENATOR WHEELER: The Health and Human Services Committee has recommended that this bill be found inexpedient to legislate. SB 166 is a 30-page bill that radically changes the way that we collect our child support payments. It sets up a new, very large bureaucracy to modify child support orders. It removes child support modification from the court and sets it up within its own health and human services agency, both here and with any other state that chooses to be a reciprocal state. This makes the executive branch of the Division of Human Services, both judge, jury, prosecutor, enforcement and collection agents. The committee feels strongly that there should be a separation of powers within these duties. Also, we believe that it is more prudent to address the root problems within child support and Senator Podles has a bill in Judiciary that we believe will do that and we should take that direction this year. Some of the root problems in child support have to do with the fairness in orders and the enforcement of visitation. We believe that those things are the things to do first, in increasing our child support collections from non-custodial parents. We believe that this bill is a "club over the head" approach. It should be put off until later, if it is needed at all. Last year, if you remember, we also implemented the bill that would allow for license

revocations for those non-custodial parents who get behind on their support payments. We passed that legislation and we need to give it time to work. This legislation is certainly not for today.

SUBSTITUTE MOTION

Senator J. King moved to **substitute ought to pass for inexpedient to legislate.**

SENATOR J. KING: This bill was before this body last session and it was sent to be studied and there wasn't much studying done on this, I can tell you that right now. But this is an act that is long overdue in the collection of support payments. Having spent 17 years in the department that is part of the job of collecting child support payments, we had more difficulty with out-of-state cases than we had with our own. You could never get the money because you could never get in touch with the person. It was unbelievable. This sets up a compact which I call similar to the probation/parole compact. They accept the case there, the communications are better and they can bring it to court just as if they were still living in this state. Under this statute child support orders are given the same force and effect in foreign jurisdictions who have adopted the compact as they are given in New Hampshire. There is no need to seek judicial review in another state, a review that could delay the enforcement of a valid New Hampshire order. If the pair under the order resides out of the state, the order is merely filed at the agency responsible for enforcing the support order and the collection procedures can be enforced. There are TAPE INAUDIBLE they can bring it into court and get it set up there and the thing goes on. The biggest trouble is trying to get it and you can't go from this state into another state and it is a big, long process. New Hampshire will participate under this compact in the enforcement of other states' child support orders. It will do the same thing as they do there. We will have our orders in court. The safe haven for dead-beat people will continue to shrink. The procedures for enforcement collection are spelled out in the statute. This bill will help immensely in the collection and enforcement of the court orders. Every penny collected under this legislation is a penny that is put to good use. In many instances, every penny collected under statute is a penny that the state of New Hampshire would not have to produce under its already strained budget. I think that it is very important. The law enforcement bill is long overdue and it is necessary and if there are some bugs in it, I haven't found any, we can address it next year, but let's give it a try. I tried to do this 20 years ago.

SENATOR RUSSMAN: Senator King, do you have any knowledge of the modification procedures under this act? The point that I make is that what if you have a child support order that is current in this state and the spouse moves to Florida. I realize what you are saying is that you take the order from here and you send it down to Florida and they give it full faith and credit in the court in Florida just as though it were here; yet on the issue of modification about that order, can the payor apply for modification or file a motion to modify in the Florida court?

SENATOR J. KING: I would say, yes. I am not quite sure, but I would say yes, because this handles the whole case as if it were a case that you had in your own state.

SENATOR RUSSMAN: I guess I would agree with Senator King in terms of this being something that is long overdue in the child support enforcement area because, frankly, most of these people you end up turning away

because it is difficult to enforce the orders, when they are taken out of state, on the person who is out of state. The only concern that I have is in the area of modification, if the person from Florida were forced to come back to New Hampshire to modify the order, that would be a complicated matter. If they can file a motion to modify it in Florida's jurisdiction, for example, that would be appropriate and that certainly could give them some relief if they thought the order was exorbitant and they thought it was unfair or they had a change of circumstances such as they were laid off from work, for example, would be the prime thing. I don't know. If anybody can address that question and answer it, I would appreciate that.

SENATOR J. KING: I might just say that I am not quite sure of that, but I thought it covered the whole order from beginning to end. But I would say that this does have to go to the house and I will check to make sure that it is amended, if it can be amended. We would take care of it there.

SENATOR LARSEN: We heard in the Health and Human Services Committee from the Department of Health and Human Services in greater detail on this. We heard some of the major benefits of adopting UIFSA are that it eliminates multiple orders in cases and they only allow one order in place at a time for child support. It promotes fairness by making the interstate system available to child payors as well as payees. UIFSA is a procedural law. New Hampshire law would still govern the amount of support whether an order is to be modified and whether paternity has been proven. By adopting UIFSA, it eliminates red tape by allowing states to enforce cases directly with an out-of-state employer rather than requiring the state to go through another state agency. This would result in expedited collection of support. We also heard that the federal government is considering passage of UIFSA and that it is likely to happen. We can wait for the federal government to do this, but it is good legislation right now for the state of New Hampshire to adopt it. We talk about welfare reform. We talk about parental responsibility. This is not some wild idea. This is a uniform act adopted through many states. I believe there are more than 20 states that have adopted this. Right now we have to go state by state. It makes sense for New Hampshire to require parental responsibility. When a parent has a child, they should not be able to move state to state and avoid support. This makes a lot of sense. I did not agree with the committee on this vote. I ask all of you to consider whether you think a parent should be able to move state to state and avoid supporting their child. This bill is a very reasonable measure to require parental support.

SENATOR RUBENS: Senator Wheeler, would you agree with me TAPE INAUDIBLE due process rights from fathers in this state, that we potentially increase revenues and the state would extract more money out of fathers?

SENATOR WHEELER: I would agree that every non-custodial parent that came to the hearing, and it was a long hearing - I have a pile of paper an inch high here - did not favor this new interstate compact. And the answer to Senator Russman's question is that you wouldn't be going to court in those other states. You would be going to the Division of Health and Human Services in those other states. The only time that you would go to the court is if you wanted to appeal the administrative decision by the Health and Human Services agency in the other state. The first order in a divorce on this bill would take jurisdiction. Some of these issues

we may be willing to revisit at a later date, but we feel that we are doing the right things now. We feel that Senator Podles' bill will also get extreme deadbeat situations and will allow extradition to get the non-custodial parent back here and into court to pay up.

SENATOR RUSSMAN: I have heard a couple of times about your bill that is coming along and my concern is that what happens is that people are on - particularly, it seems like the population is on public assistance. For whatever reason, sometimes the spouse in that situation tends to be transient and sometimes they go down to Florida and look for work or go here or go there, and so we, as the population, end up having to pay for that in the welfare end of things in terms of aid and so on and so forth, so the collection of those revenues TAPE INAUDIBLE significant and so on and I guess my question to you is whether or not your bill covers those types of things and do you feel comfortable, at least, that it addresses that issue, because right now, it is a real can of worms and a lot of money is going uncollected, frankly, that shouldn't. It deserves some support. Some of these people do have a tendency to move from one place to another in order to avoid the payments and it is very frustrating in terms of having to turn people away. I, frankly, don't even deal with those people because you couldn't charge them enough to make it worth your while to do it, so you send them off somewhere else and I don't know what they do from there, but it is a difficult situation. Perhaps you could address that?

SENATOR PODLES: I introduced a bill on child support but it is in study. We have been studying it for two years. We've had judges and other people study this bill, and if anyone goes to another state and refuses to pay child support, that is a felony. TAPE INAUDIBLE criminalizing all of this and so there is a lot of information. I am not sure whether that covers your part because we haven't had a hearing on it, but there are a lot of good things in it and I think anyone who has seen the bill agrees.

SENATOR RUSSMAN: Do you support this bill?

SENATOR PODLES: I supported it in the committee and I support it now. Senator Barnes moved the question.

Adopted.

Question is on the substitute motion of ought to pass.

A roll call was requested by Senator J. King.

Seconded by Senator Shaheen.

The following Senators voted Yes: F. King, Gordon, Fraser, Blaisdell, Pignatelli, Larsen, Podles, J. King, Russman, Shaheen, Cohen.

The following Senators voted No: Johnson, Rubens, Lovejoy, Currier, Rodeschin, Wheeler, Stawasz, Colantuono, Barnes, Danais, Keough.

Yeas: 11 - Nays: 11

Motion of ought to pass fails.

Senator Roberge is excused.

Question is on the committee report of Inexpedient to legislate.

Inexpedient to legislate is adopted.

RESOLUTION

Senator Cohen offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Resolution numbered 2 shall be by this resolution read a first and second time by the therein listed title.

Senator Cohen offered the following resolution:

4273L

SR 2**STATE OF NEW HAMPSHIRE**

In the year of Our Lord

One Thousand Nine Hundred and Ninety-Six

A RESOLUTION

condemning the Nationalist Movement and its message of
white supremacy, racism, homophobia,
anti-Semitism, and hatred.

Whereas the constitution of the state of New Hampshire recognizes that all people are born equally free and independent and have certain natural essential and inherent rights, among which are the enjoyment of life and liberty; acquiring, possessing, and protecting property; and, in a word, seeking and obtaining happiness; and

Whereas, the constitution of the state of New Hampshire guarantees that the equality of rights under the law shall not be denied or abridged by this state on account of race, creed, color, sex, or national origin; and

Whereas, the people of the state of New Hampshire embrace tolerance and respect for all people and reject hatred and bigotry; and

Whereas, The Nationalist Movement, a Mississippi-based white supremacist organization has come to New Hampshire at the time of the First in the Nation Presidential Primary seeking a public platform to spread a racist, anti-semitic, homophobic doctrine and message; and

Whereas, The Nationalist Movement has obtained a permit to hold a rally in front of the New Hampshire state house on Monday, January 15, which is Martin Luther King, Jr. Day and Civil Rights Day, to promote its politics of hate and intolerance; and

Whereas, common decency and the lessons of history require that the message of bigotry not be met with silence by people of good will and their elected officials, lest the objects of hate feel further victimized and the purveyors of hatred presume silence to be unspoken support; now, therefore, be it

Resolved by the Senate:

That the New Hampshire senate explicitly condemns the Nationalist Movement and its message of white supremacy, racism, homophobia, anti-Semitism, and hatred; and

That the senate reaffirms the sacred principles of tolerance, equality, freedom, and justice for all in our beloved Granite State; and

That copies of this resolution, signed by the senate president, shall be posted by the senate clerk in the state house and distributed to the governor and the press.

SENATOR COHEN: I will be brief as I recognize the hour. As everyone is aware, Monday is Martin Luther King, Civil Rights Day. No doubt people are aware that there is a group coming up, I believe, from Mississippi called the Nationalist Movement. A hate group is coming up here using the state of New Hampshire State House steps. They have a per-

mit. This is a resolution which has similar wording, the same wording that passed the house earlier today by a vote of 337 - 3. I hope it will pass unanimously in here.

SENATOR BARNES: Would you believe, Senator, that I am sorry that you didn't ask me to be a co-sponsor on this?

SENATOR COHEN: Well I imagine that everyone in here would like to be a co-sponsor of this resolution so that we could show that support.

SENATOR WHEELER: Senator Cohen, could you just define homophobic for me?

SENATOR COHEN: Oh, I think that you know what homophobic means, Senator Wheeler.

SENATOR WHEELER: Please define it for me.

SENATOR COHEN: Homophobia is a form of hatred. It is a form of intolerance. It is a fear and hate of homosexuals.

SENATOR WHEELER: Thank you, Senator.

Adopted unanimously.

SENATOR BLAISDELL (Rule #44): This won't take too long because Junie is a diabetic and he is dying right now. He has to get something to eat. I just want to remind the senate that you get a lot more with honey than you get with vinegar. I am seeing some things here now that kind of disturb me a little bit. We have a long session ahead of us and as I said, as Yogi Berra said a long time ago, "It ain't over till it's over." I know you people are probably sick of me saying something about waiting and waiting and waiting on different things, until May or June gets here so that we know what the picture is, but I just want to enter into the record that in November we met here to discuss the reorganization of the Department of Health and Human Services. As you know, we put in seventeen amendments offered by the six-pack. We offered several which we thought was proper to do. And as you know, they met with little success as the urgency to get the bill passed and signed on that day was paramount. We were told that this is a must. You have to act now. The hearings that were held two weeks prior to the session dealt with many changes and many ideas. Reorganization was critical to balance the governor's budget. He needed a quick action to find \$32 million that he could not find. Well, it passed and we raced to get it done. We made the sweeping changes. We were going to take away long-earned rights of only certain state employees. It is still in the courts and probably won't be heard until April or May probably by the time that they get done. I wonder, as I stand here today, if we all would have been in such a great hurry if we could have seen the letter that I have in my possession, and I don't know if you have seen it or not. It is dated November 1, 1995, and it is an important statement and I want to quote it. "It is my intent that the Department maintain the structure and procedures that were in place immediately prior to the effective date of HB 32 until specifically directed otherwise." This letter was signed by Commissioner Terry Morton. It was written to the governor, the same day, I believe, that it was signed and passed. As you know, nothing, nothing has happened. The urgency to get it done was completely out of line. It is an abrogation of our responsibility as legislators. We should have waited before we passed that bill. As you know, I voted to wait and take the legislation carefully and look at

it and use my legislative prerogative to review this most important piece of legislation, as you should have, I think. Well, there's some egg on people's faces, I guess. I just wondered if you would have voted the same way today if you saw that letter and knew that that letter was going to be sent to the governor. We put immense problems on our state employees, that other half of state employees, Senator Stawasz, that we talked about. You know the ones you mentioned on your floor speech to me. Those people were put through something they should never have been put through. We should have handled that problem right here in January. And here we are. Nothing has been done. We had to pass it in November because the state was going to fall apart. Well, the state is not going to fall apart. We are going to be here for awhile. So again, I caution you people. I bring this up because, you know, let us wait awhile. When we pass legislation, and we pass appropriation bills, let us be sure, let us wait to see what we have. We don't have to rush everything. The state of New Hampshire is very important to all of us, so let us not rush anything. Everybody wants to get everything done in a snap, just like the bills in the Ways and Means Committee the other day on certain things that affect the state of New Hampshire. Everybody wants to get them out, to get rid of them. Well, that is wrong. We should be looking to see what is happening. We should wait to see what is going to happen in Massachusetts and places like that. So again, I get back to my original statement. Let us try to remember that you get a lot more with honey than you do with vinegar. I know that I break the rules more than anything here and I am sure that the senate president gets mad at me because I know I sometimes step up and say something that I shouldn't say. I guess maybe what I am trying to do is to try and bring some humor into this place. God knows we need it. So if I am out of line, I apologize to everyone, but I am not going to change.

RESOLUTION

Senator Barnes moved that the senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourned until Thursday, January 18, 1996 at 10:00 a.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 417, an act relative to investments by town trustees.

HB 486-FN, an act relative to lease agreements for state equipment.

SB 7-FN-A, relative to kindergarten aid programs, the establishment of certain kindergarten aid funds, and making an appropriation therefor.

SB 73, an act relative to real estate brokers liens.

Senator J. King moved that the senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Thursday, January 18, 1996 at 10:00 a.m.

Adopted.

Adjournment.

1996 SESSION JOINT RULES

Be it resolved by the Senate, the House of Representatives concurring: That the following joint rules be adopted for the 1995-1996 sessions:

1. The Committees on Rules of the Senate and the House shall meet jointly for the purpose of recommending joint rules to the Senate and House and such matters as may be referred to them by either or both bodies. Recommendations shall be approved by majority vote of each committee.

(a) For the purposes of convening the joint meetings of the Rules Committees of the Senate and the House and presiding over such meetings, the Chairman of Senate Rules shall serve as Chairman of the committees meeting jointly in the odd-numbered months, and the Chairman of House Rules in the even-numbered months.

(b) Prior to the second-year session, the Committees shall meet jointly for the purpose of recommending to the two bodies deadlines for the conduct and conclusion of the business of the second-year session. Each body may amend and shall approve these deadlines by majority vote on the first legislative day of the second-year session. The Committees shall issue a report of recommendations for second-year session deadlines to the membership of both bodies, conduct at least one public hearing thereon, and issue its final report of recommendations to the general membership not less than fifteen days prior to the first legislative day of the second-year session.

2. When a convention of the two bodies is to be formed, whether by a requirement of the Constitution, or by a vote or resolution of the two bodies, a message shall be sent from the House of Representatives to the Senate, giving notice when the House will meet the Senate in convention. As soon thereafter as reasonably possible, the Senate will attend in the House. The Speaker of the House shall be chairman of the convention, and shall state the reasons for forming the convention. When the House and Senate are thus formed in convention, the rules adopted as the rules of the House shall be considered the rules of the convention, so far as they may be deemed applicable, and the convention shall accordingly be governed thereby.

3. Messages shall be sent by such person or persons as each body may deem to be proper. Messages from either body shall be received from the other at all times, except when engaged in putting a question, in calling yeas and nays, or in counting the ballots. When a message shall be received from either body to the other, it shall be announced by the presiding officer.

4. While bills are on their passage between the two bodies, they shall be under the signature of the clerk of each body respectively.

5. There shall be no limitation on the type of legislation introduced in the first- or second-year sessions, except:

(a) No bill the subject matter of which is substantially similar to a bill which has been indefinitely postponed or made inexpedient to legislate in either body in the first-year session shall be admitted into the second-year session whether as a bill, an amendment, a committee of conference report or in any other manner; and

(b) No bill, joint or concurrent resolution, shall be introduced into either body for the second-year session unless

(1) The sponsor of such bill, joint or concurrent resolution, files the legislation by title and complete information on or after May 15, 1995, and before 5:00 p.m. on June 30, 1995 to the Office of Legislative Services, and the bill is fully prepared by said office for sign off prior to October 30, 1995; or

(2) The legislation is filed by a standing or statutory study committee which is the result of official work during the interim on or after November 1, 1995 and before 5:00 p.m. on November 10, 1995 to the Office of Legislative Services, and the bill is fully prepared by said office for sign off prior to December 1, 1995; or

(3) The legislation is approved for introduction by a majority of the Rules Committee in the body in which the legislation originates.

If the sponsor requests a redraft within the sign-off period, the sponsor shall sign the legislation for introduction within ten calendar days after the redraft has been mailed to the sponsor. No more than one redraft per LSR may be requested during the last ten days prior to the sign off deadline.

(c) During the first-year session, a standing committee of the non-originating body may report a bill or resolution with the recommendation that it "be re-referred for action in the second-year session."

(d) Action on any bill or resolution so re-referred by either body shall be taken in that body on or before Thursday, January 11, 1996.

(e) Legislation returned from the non-originating body with an amendment shall not be re-referred to committee but shall have one of the following recommendations: concur, non-concur, non-concur and request a committee of conference. A recommendation of non-concur kills the legislation.

6.(a) Any bill or resolution which would have a fiscal impact on the revenues, expenditures, or fiscal liability of the state or any of its subdivisions shall not be introduced unless there is attached thereto a fiscal note prepared in accordance with the procedures stipulated in RSA 14:44-47.

(b) Any bill concerning state retirement systems shall not be introduced unless there is attached thereto a fiscal note based upon estimates obtained from a qualified and approved actuary as to total cost involved.

7.(a)

Every bill repealing or modifying any act or statute shall refer to the same:

(1) If contained in the Revised Statutes Annotated, by the section and chapter.

(2) If not contained in the Revised Statutes Annotated, by the section and chapter and the session of the legislature when the same was passed expressed clearly with full reference to all amendments in sequence so that it shall not be necessary to refer to any other act or statute to ascertain its meaning.

(b) The title of every bill shall indicate, in brief and comprehensive form, the subject matter contained in the bill.

(c) Commencing with section 2, each section of the Operating Budget bill shall be annotated as to its source (i.e. Governor, House or Senate) and as to substantive amendments to such section. Such annotations shall be provided by the Legislative Budget Assistant and shall appear at the end of the actual section to which they apply.

(d) It shall be the duty of the presiding officer of each body of the legislature to require all such bills to be made in conformity with this rule, before putting any vote thereon, except to commit or amend.

8.(a) When a bill or resolution which shall have passed in one body is rejected in the other, notice thereof shall be given to the body in which the same has passed.

(b) After each body shall have adhered to its disagreement, a bill or resolution shall be considered lost.

9. Each body shall on request transmit to the other all papers, or copies thereof, on which any bill or resolution may be founded.

10. The schedule for the second-year session shall be the timetable adopted by both bodies following the procedure outlined in Joint Rule 1(b) and this schedule shall constitute Joint Rule 10 for the second-year session. In the first-year session, all bills in the non-originating body requiring referral to the Finance Committee shall be reported out of all policy committees and referred to the Finance Committee no later than the first Thursday in May in 1995 (May 4). In the second year session, final action, excluding action on enrolled bills committee reports, shall be taken by each house on all bills and joint resolutions as follows:

(a) In the originating body:

(1) On those bills referred to the Finance Committee containing appropriations, or which raise or affect statutes raising revenue, including the budget and capital budget bills, no later than the third Wednesday in March in 1996 (March 20).

(2) On all other bills, no later than the first Thursday in March in 1996 (March 7).

(b) In the non-originating body:

(1) On the budget and capital budget bills, and on those bills referred to the Finance Committee containing appropriations, or which raise or affect statutes raising revenue, no later than the second Thursday in May in 1996 (May 9).

(2) On all other bills, no later than the third Thursday in April in 1996 (April 18).

(c) Both bodies shall take final action on all committee of conference reports by the fifth Wednesday of May in 1996 (May 29).

(1) Reports of committees of conference including the committee of conference on the supplemental budget bill, shall be formed no later than the third Thursday in May in 1996 (May 16). Reports of committees of conference including the committee of conference on the supplemental budget bill, shall be filed with the clerks of both bodies no later than 3:00 p.m. on the fourth Wednesday in May in 1996 (May 22). Reports on all committees of conference, including the committee of conference on the supplemental budget bill, shall be available on the fourth Friday of May in 1996 (May 24).

(2) The report of the committee of conference on the budget bill shall contain a balanced budget for the biennium.

(d) All bills shall be submitted to the Governor for his signature no later than the first Thursday in June in 1996 (June 6). The budget bill shall be transmitted to the Governor within one hour of its receipt by the Secretary of State regardless of the actual time of day. A supplemental budget for the second-year session must be introduced no later than the second Tuesday in January in 1996 (January 9). When each body adjourns it shall adjourn to the joint call of the President of the Senate and the Speaker of the House.

11. No bill which has been indefinitely postponed shall be admitted under color of amendment by a committee of conference or otherwise.

12. No bill, joint resolution, concurrent resolution or concurrent resolution amending the constitution shall be introduced in either body after the second Thursday in February in 1996 (February 8).

(a) Before any deadline established for passage of bills from the first body, Rule 12 may be suspended by a majority vote of the Rules Committee in either body.

Deadline dates for the second-year session shall be recommended by the Joint Rules Committee under Joint Rule 1(b).

(b) Subsequent to any deadline established for passage of bills from the first body, Rule 12 may be suspended by a majority vote of the Rules Committee in the body in which the bill originates. Any such legislation approved by the Rules Committee of either body shall be exempt from the deadlines established by joint rules except that final action on any such bill, including action on any reports of committees of conference, shall be taken no later than (to be determined), and any such bill shall be sent to the Governor for his signature no later than (to be determined).

13. There shall be a committee in each body for the purpose of enrolling bills. All bills that have passed both bodies shall be delivered to the enrolled bills committee in each body. A member of each committee shall carefully examine each bill, enroll it, and report it, on behalf of the committee, to the respective body. If the examination of a bill shall disclose any clerical error or formal imperfection, it shall be reported back to each body with such identical amendments as are required to correct the same; and any measures so reported shall be subjected to amendment in those particulars and in no other respect. After enrollment in both bodies, all bills shall be signed by the President of the Senate and the Speaker of the House of Representatives.

14. A public hearing on any bill may be held jointly by the Senate and House committees. The Speaker or President of the body in which the bill originates may request the President or Speaker of the other body to authorize the appropriate committee of that other body to sit at a joint public hearing. Joint hearings in no way preclude the bill being reheard by the committee of either body. Presiding over the hearings shall be the chairman of the committee calling for the joint hearing or his designee without regard as to whether a House or Senate bill is being heard. The Speaker or the President may authorize standing committees of their respective bodies to meet on non-legislative days as needed.

15. A bill or resolution may be recalled from the Governor at any time before it is signed by him, by the President of the Senate or the Speaker of the House, whichever body last had possession.

16. Concurrent Resolutions Proposing Constitutional Amendments. Proposed constitutional amendments shall be submitted as concurrent resolutions entitled: "Concurrent Resolution proposing a Constitutional Amendment Relating to ***, " and with a resolving clause in the following form: "Be it Resolved by the (Senate) (House of Representatives) the (House of Representatives) (Senate) concurring that the Constitution of New Hampshire be amended as follows:" Concurrent resolutions proposing a constitutional amendment shall truly propose to amend or supplement the Constitution and contain only subject matter which genuinely belongs in the fundamental law of the state: it being the intention of this rule to exclude therefrom all subject matter which is legislative in nature and all amendments for the primary purpose of obtaining a popular referendum. Each concurrent resolution shall set forth the text of the new matter to be inserted in the Constitution and also the text of a question summarizing the amendment, to appear on the ballot proposing such constitutional amendment. The General Court shall specify the particular election at which such question is to be submitted to the voters, and shall state whether it is to appear on the regular or a separate ballot. All such concurrent resolutions shall be read a first and second time by title and referred to the appropriate standing committee for public hearing and report. Amendments to such a resolution shall be in order while the measure is still on second reading. On the question of ordering such a resolution to third reading and on the question of final passage, the

President and Speaker shall require a division vote unless a roll call is recorded under the rules and completed. Adoption of either of said questions shall require a vote of three-fifths of the entire membership of each house. In case of disagreement between the two bodies, such concurrent resolutions shall be subject to the usual conference committee procedure. Such concurrent resolution, if adopted by the required constitutional majority of each body, shall be enrolled in the usual form and signed by the Speaker and the President, and shall be submitted to the Secretary of State for appropriate action and for submission to the voters. Such concurrent resolutions shall be made a part of the permanent legislative records.

17. All hearings on a concurrent resolution proposing a constitutional amendment may be held jointly as provided under Joint Rule 14 by the appropriate standing committees of the Senate and House provided that in the event the resolution is amended in the first body and the second body chooses to have a second hearing this too may be joint. The committee vote on the resolution shall be by each committee, not by the committees jointly, and passage in final form shall be completed by both bodies not later than a date to be set (date to be determined) of the calendar year in which the resolution was introduced. After said date no further action may be taken by either body on the resolution provided that if the opinion of the attorney general or an advisory opinion from the supreme court states that, the form of the question in the resolution needs to be amended, the two bodies may amend the resolution in such particular only by affirmative vote of no less than three-fifths of the entire membership of each body taken on division or roll call vote. A motion to so amend shall be in order in either body, notwithstanding any other rule to the contrary, at any time prior to the prorogation of the assembly of that General Court.

18. Any bill making an appropriation for the administration, operation and maintenance of any department or departments for each or any fiscal year of the biennium (the Budget Bill) or a bill making general appropriations for the cost of land, public improvements and other capital outlays, itemized by specific projects or classes of projects of the same general character (the Capital Budget Bill) shall be introduced into the House no later than the third Thursday in March (March 16).

19. Committees of Conference.

(a) Whenever there be any disagreement between the Senate and the House on the content of any bill or resolution, and whenever both bodies, voting separately, have agreed to establish a committee of conference, the President of the Senate shall appoint three members to the Senate conference committee on the bill and the Speaker of the House shall appoint four members to the House conference committee. Exceptions: (1) the House committee of conference on the operating budget shall consist of five members; (2) the number of the members of the committees of conference on any bill may increase or decrease if the President and the Speaker both agree. The two committees of conference on a bill shall meet jointly but vote separately while in conference. A unanimous vote by both committees of conference shall be necessary for an agreed report to the Senate and the House by the committees of conference.

(b) The first-named person from the body where the bill or resolution in disagreement originated shall have the authority to call the time and place for the first meeting of the committees of conference on said bill.

(c) The first-named person on a committee of conference shall be the chairman of that conference. The chairman of the committee of conference of the body where the bill or resolution in disagreement originated shall chair the joint meeting of the committees of conference.

(d) No action shall be taken in either body on any committee of conference report earlier than some subsequent day, after the report has been delivered to the seats or placed on a member's desk. A committee of conference may neither change the title of any bill submitted to it nor add amendments which are not germane to the subject matter of the bill as originally submitted to it.

(e) Conference Committees on Budget Bills. The report of each committee of conference on either the general appropriation bill, or the capital improvements bill shall be printed in the journal or a supplement thereto of the appropriate body before action on said report is taken on the floor. Non-germane amendments, sections and footnotes to such bills (except footnotes in explanation of the principal text of such bills or designating the use or restriction of any funds or portions thereof) are prohibited and shall not be allowed under any circumstances. Notwithstanding the general provisions of paragraph (h) of this section, the Conference Committee on general appropriations bill may propose new items for inclusion in said bill but no such item may be so included unless and until it shall have been returned to both the Senate and the House and adopted in identical form by a majority vote in each body.

(f) When both committees of conference on a concurrent resolution proposing an amendment to the constitution have agreed, the committee of conference from the body which acceded to a request for committees of conference shall file its report with the clerk of that body who shall print it in full in the journal or supplement of that body. The report shall be made a special order of business at the late session of a subsequent day. After said report has been adopted by the first body, a message shall be transmitted to the second body which shall then act upon the report of its committee of conference.

(g) A sponsor of any bill or joint resolution referred to committees of conference shall, upon his request, be granted a hearing before said committees prior to action thereon.

(h) No member of a committee of conference shall sign any report that contains non-germane amendments or subject matter that has been indefinitely postponed in either body. For the purposes of this rule, a non-germane amendment would be any subject matter not contained in either the House or the Senate version of the bill.

20. No Joint Rule, except rule 12, shall be suspended unless two-thirds of the members present, in each house, voting separately, vote in favor thereof.

21. Members of both houses may sponsor legislation jointly. Proposed legislation will be titled House Bill or Senate Bill according to the first named sponsor. On such jointly sponsored legislation, the approval of up to five House members and up to five Senators shall be sufficient for the introduction of any bill, joint resolution, CACR, or bill of intent. If more than five House members and/or more than five Senators wish to be sponsors, the first named House/Senate member on the bill shall determine the names of the four House/Senate co-sponsors whose signatures are required for introduction. Other House/Senate members may be added as co-sponsors by notifying their respective clerks prior to the date of the first public hearing on the proposal, and their names shall be recorded in the appropriate permanent journal of that session.

22. Clarification of Legislative days. Legislative days are figured in each body independently based on the actual days that either body has been in session. Neither body may extend a legislative day for more than twenty-four hours after midnight of the calendar day of the legislative day involved, except for the purposes of enrolling or introduction of bills.

23. (a) First-Year Session. Any legislation not disposed of by any other motion in the first-year session by midnight on July 1 of the first-year session shall be indefinitely postponed for the remainder of the biennium. Legislation re-referred to Committee shall be exempt from the provisions of Joint Rule 23(a).

Legislation sent to the Courts for an opinion by either body shall be exempt from any deadline established by Joint Rules.

(1) Bills and resolutions substantially similar to bills and resolutions re-referred in the first-year session shall not be reintroduced during the second-year session. The presiding officer shall determine whether any bill or resolution introduced into the second-year session is substantially similar to a bill or resolution re-referred in the first-year session.

(b) Second-Year Session. Consideration of all legislation introduced on or before July 1 of the second-year session shall be terminated at midnight on July 1 of the second-year session and any bill not acted upon by this date and time shall be indefinitely postponed for the purposes of the 1995-1996 regular session of the General Court. If after July 1 of the second-year session the two bodies of the General Court are called into session by joint action of the two presiding officers, any legislation considered shall be limited to matters not indefinitely postponed on or before July 1 of the second-year session. Such new legislation may come before the General Court with the approval of three-fifths of the Rules Committees of both bodies, voting separately, or of two-thirds of the members of both bodies, voting separately. Any new legislation so introduced shall be exempt from the joint rules for time limitations for action on legislation in both bodies and in any committee thereof.

24. Membership on study committees created by session laws shall be limited to members of the General Court.

RULES OF THE SENATE

1. Determination of quorum; correction of Journal.
2. Members, decorum of
3. Members, conduct when speaking
4. Members not to speak more than twice.
5. President shall recognize whom.
6. Questions of order, appeal.
7. Member, absenting himself.
8. Motions, order of preference.
9. Questions postponed indefinitely not acted upon in same biennium.
10. Questions, when divided.
11. Objections to reading paper, how determined.
12. Roll Call, everyone must vote.
13. Galleries, clearing of.
14. Reconsideration, motion for.
15. Petitions, introduction of.
16. Bills; shall be numbered and expressed clearly.
17. Bills, introduction of.
- 17-A (a) Bills, deadlines for drafting.

- 17-b Bills, deadlines for information
- 17-c Final deadline
- 17-d Bills, killed in first year session
- 17-e Bills, returned with amendment
- 17-B Committees of Conference.
- 18. Resolutions to be treated as bills
- 19. Bills shall have three readings; progress of; time for second and third readings.
- 20. Bills, printing and distribution.
- 21. Bills amended only on second reading; filing of amendments.
- 22. Public hearings to be held and advertised.
- 23. Amended bills, printed distributed and disposed of.
- 24. Appropriating money, to whom referred.
- 25. President to sign bills, etc.
- 26. Committees, appointment of.
- 27. Standing Committees.
- 28. Messages sent to House.
- 29. Messages, when received.
- 30. Voting; division of Senate.
- 31. Visitors to Senate.
- 32. Hours of meeting.
- 33. Rules of Senate, how suspended.
- 34. Rules of Senate, how rescinded.
- 35. Committee of the whole.
- 36. President may name member to chair.
- 37. Senate staff; composition and duties.
- 38. Senate staff; days of employment.
- 39. Committees, reports and meetings
- 40. Appeal, presiding officer ruling.
- 41. Motions, no substitution under color of amendment.
- 42. Conflict of interest.
- 43. Committee of Conference reports
- 44. Personal privilege.
- 45. Requisition Approval Required.
- 46. Fiscal notes, requirements.

SENATE RULES

1. The President, having taken the chair, shall determine a quorum to be present. Any erroneous entry in the daily journal shall be corrected no later than the third succeeding legislative day, and the permanent journal corrected one week after the permanent journal copy is placed in the hands of the Senate.
2. No member shall hold conversation with another while a member is speaking in debate.
3. Every member, wishing to speak, shall address the President and when he has finished shall, if having risen to speak, then sit down.
4. No member shall speak more than twice on the same question on the same day without leave of the Senate.
5. More than one member rising to speak at the same time, the President shall decide who shall speak first.
6. If any member transgresses the rules of the Senate, the President shall, or any member may, call him to order; in which case the member so called to order shall immediately cease and desist, and the Senate, if appealed to, shall decide the case. But if there is no appeal, the decision of the President shall be conclusive.

7. No member shall absent himself without permission from the Senate.
8. When any question is under debate, no motion shall be received but first, to adjourn; second, to lay upon the table; third, for the previous question; fourth, to postpone to a certain day; fifth, to commit; sixth, to amend; and seventh, to postpone indefinitely; which several motions shall have precedence in the order in which they are so arranged. Motions to adjourn, to lay upon the table, for the previous question, and to take from the table shall be decided without debate. Motions to postpone to a certain day shall be debatable both as to time and subject matter. No motion to postpone indefinitely, to postpone to a certain day, or to commit, being decided, shall be in order at the same stage of the bill or resolution, until after adjournment.
9. A question which is postponed indefinitely shall not be acted upon during the biennium except whenever two-thirds of the whole number of elected Senators shall on division taken, vote in favor thereof. Any bill which is indefinitely postponed shall not be reintroduced under cover of an amendment to the general appropriations (budget) bill. No motion to suspend this rule shall be permitted.
10. Any member may call for a division of the question when the sense will admit it. Unless otherwise specifically provided for, a majority of those present and voting shall be required to pass any vote.
11. When the reading of a paper or document is objected to by a member, the question shall be determined by a vote of the Senate; and without debate.
12. When the nays and yeas have been moved by a member and duly seconded by another member, each member present shall declare his assent or dissent to the question, unless for special reason he be excused by the Senate. The names of the persons so making the motion and the second shall be recorded in the Journal. A member who is to be absent when the yeas and nays are required may pair his vote with another member, to be present or also to be absent, who intends to vote on the opposite side of the question. Pairs shall be permitted only if the yeas and nays are taken on such question. Both members shall file such pair in writing with the Clerk before the question is put. In all cases of pairing, the vote of neither member shall be counted in determining the result of the roll call; but the Clerk shall announce all pairs and enter them in the Journal. The President shall determine the order of the roll call. No member shall be required to vote in any case where he was not present when the question was put.
13. In case of any disturbance or disorderly conduct in the gallery, the President shall have the power to order the same to be cleared. The Chairman of the Committee of the Whole may restrict attendance to the duly elected Senators.
14. No vote shall be reconsidered, unless the motion for reconsideration be made by a member who voted with the prevailing side, nor unless the notice of such motion be given to the Senate in open session prior to adjournment on the same day on which the vote as passed, or on the next day on which the Senate shall be in session within one half hour after the convening of the early session, and any such notice of reconsideration shall be effective for three legislative days only and thereafter shall be null and void.

- 14 (a) Reconsideration of any bills subject to a transfer date established by joint rules must be acted on or before the joint rule deadline, and thereafter shall be null and void.
15. Before any petition shall be received and read, a brief statement of the contents thereof shall be made by the member introducing the same.
16. All petitions, memorials and other papers addressed to the Senate and all bills and resolutions to be introduced in the Senate, shall be endorsed with the name of the Senator presenting them, and with the subject matter of the same. Every bill shall be marked on the first page "Senate Bill" and numbered serially; every joint resolution shall be marked "Senate Joint Resolution" and numbered serially; every concurrent resolution proposing a constitutional amendment shall be marked "Concurrent Resolution Proposing a Constitutional Amendment" and numbered serially; and every other concurrent resolution shall be marked "Senate Concurrent Resolution" and numbered serially, as each bill or resolution is introduced into the Senate.
17. All petitions, memorials and other papers addressed to the Senate and all bills and resolutions to be introduced into the Senate shall be delivered or caused to be delivered to the Office of Legislative Services, which in turn will submit it to the sponsor for his signature, and then to the Clerk by Legislative Services. If requested by the sponsor, a proposed bill, resolution or petition shall not be made public, except by the sponsor, until signed by the sponsor. During any adjournment the President may receive bills and resolutions for printing and for reference to committee, provided that no bill shall have a public hearing until it is formally introduced into the Senate printed and available for distribution. The President shall take up all bills and resolutions for introduction at the early session.
- 17-A (a) The Office of Legislative Services shall not draft a Senate bill or joint resolution, other than the general appropriations (budget) bill or the capital budget bill, unless a request by a member for drafting with complete information has been received not later than 5:00 pm, June 30, 1995.
 - (b) Every Senate bill and joint resolution, other than the general appropriations (budget) bill or the capital budget bill, must be signed off in Legislative Services by 5:00 p.m., October 30, 1995.
 - (c) Notwithstanding the provisions of 17 (a), (b), and (c), a Senate bill, Senate joint resolutions, or Senate concurrent resolution may be accepted by Legislative Services for drafting and introduced into the Senate at any time prior to the deadline established by Joint Rules for the transfer of bills out of the first body if approved by either a majority of the Senate Rules Committee or a two-thirds vote on the floor.
 - (d) *No bill the subject matter of which has been indefinitely postponed or made inexpedient to legislate in the Senate in the first-year session shall be admitted into the second-year session whether as a bill, an amendment, a committee of conference report or in any other manner;*
 - (e) *Legislation returned from the non-originating body, with an amendment, shall not be re-referred to Committee but shall have one of the following recommendations: Concur, Non-concur, Non-concur and Request a Committee of Conference.*

17-B Committees of Conference.

(a) Whenever there be any disagreement between the Senate and the House on the content of any bill or resolution, and whenever both bodies, voting separately, have agreed to establish a committee of conference, the President of the Senate shall appoint three members to the Senate conference committee on the bill and the Speaker of the House shall appoint four members to the House conference committee. Exceptions: (1) the House committee of conference on the operating budget shall consist of five members; (2) the number of the members of the committees of conference on any bill may increase or decrease if the President and the Speaker both agree. The two committees of conference on a bill shall meet jointly but vote separately while in conference. A unanimous vote by both committees of conference shall be necessary for an agreed report to the Senate and the House by the committees of conference.

(b) The first-named person from the body where the bill or resolution in disagreement originated shall have the authority to call the time and place for the first meeting of the committees of conference on said bill.

(c) The first-named person on a committee of conference shall be the chairman of that conference. The chairman of the committee of conference of the body where the bill or resolution in disagreement originated shall chair the joint meeting of the committees of conference.

(d) No action shall be taken in either body on any committee of conference report earlier than some subsequent day, after the report has been delivered to the seats or placed on a member's desk. A committee of conference may neither change the title of any bill submitted to it nor add amendments which are not germane to the subject matter of the bill as originally submitted to it.

(e) Conference Committees on Budget Bills. The report of each committee of conference on either the general appropriation bill, or the capital improvements bill shall be printed in the journal or a supplement thereto of the appropriate body before action on said report is taken on the floor. Non-germane amendments, sections and footnotes to such bills (except footnotes in explanation of the principal text of such bills or designating the use or restriction of any funds or portions thereof) are prohibited and shall not be allowed under any circumstances. Notwithstanding the general provisions of paragraph (h) of this section, the Conference Committee on general appropriations bill may propose new items for inclusion in said bill but no such item may be so included unless and until it shall have been returned to both the Senate and the House and adopted in identical form by a majority vote in each body.

(f) When both committees of conference on a concurrent resolution proposing an amendment to the constitution have agreed, the committee of conference from the body which acceded to a request for committees of conference shall file its report with the clerk of that body who shall print it in full in the journal or supplement of that body. The report shall be made a special order of business at the late session of a subsequent day. After said report has been adopted by the first body, a message shall be transmitted to the second body which shall then act upon the report of its committee of conference.

(g) A sponsor of any bill or joint resolution referred to committees of conference shall, upon his request, be granted a hearing before said committees prior to action thereon.

(h) No member of a committee of conference shall sign any report that contains non-germane amendments or subject matter that has been indefinitely postponed in either body. For the purposes of this rule, a non-germane amendment would be any subject matter not contained in either the House or the Senate version of the bill.

18. All resolutions which may require the signature of the Governor shall be treated in the same manner as bills.
19. Every bill shall have three readings in the Senate previous to its passage. The first and second readings shall be by title only which may be accomplished by a conglomerate resolution, after which the bill shall be referred by the President to the appropriate committee and shall be printed as provided in Rule 20, unless otherwise ordered by the Senate. No bill after it has been read a second time shall have a third reading until after adjournment from the early session. The time assigned for the third reading of bills and resolutions shall be in the late session unless otherwise ordered by the Senate. The orders of the day for the reading of bills shall hold for every succeeding day until disposed of.
20. After every bill shall have been read a second time, and referred by the President to the appropriate committee, the Clerk shall procure a sufficient number of copies, printed on paper of uniform size, for the use of the legislature, and cause the same to be distributed to the members, and when printed the bill shall be immediately delivered to the committee to which it shall have been referred. Bills received from the House shall be printed at the same stage of their procedure unless they have been printed in the House and copies distributed in the Senate, in which case any amendment made by the House shall be duplicated and distributed in the Senate.
21. No amendment shall be made but upon the second reading of a bill; and all amendments to bills and resolutions shall be in writing, with the name of the Senator and the district he represents thereon. No amendment to any bill shall be proposed or allowed at any time or by any source, including a committee of conference, except it be germane. Amendments shall have been reviewed by the Office of Legislative Services for form, construction, statutory and chapter reference.
22. A hearing shall be held upon each bill referred to a committee, and notice of such hearing shall be advertised at least 5 days before hearing in the Senate Calendar.
 - (a) All bills in the possession of committees shall be reported out with one of the following recommendations: ought to pass, ought to pass with amendment, inexpedient to legislate, or refer for interim study. refer for interim study shall be a committee report only in the second year.
 - (b) any legislation creating a chapter study committee shall have membership limited to members of the General Court.***
23. When a bill is reported favorably with an amendment, the report of the committee shall state the amendment, and then recite the section of the bill in full as amended. The amendment shall be printed in the calendar of the Journal on the date that the report is listed

for action. If no action is taken on that day, then the amendment shall be printed on the day to which the bill has been referred. All bills reported shall be laid upon the table and shall not be finally acted upon until the following legislative day, and a list of such bills with the report thereon shall be published in the Journal for the day on which action shall be taken.

24. Every bill and joint resolution appropriating money, which has been referred to another committee and favorably accepted by the Senate, shall be committed to the *Finance Committee* for review. If any such bills have been referred jointly to the *Finance Committee* and another standing committee, the *Finance Committee* may report separately and a further public hearing may be held at the discretion of the *Finance Committee*. All bills appropriating money, which are referred directly to the *Finance Committee* shall have a hearing. Any bill which has been referred to another committee and favorably accepted by the Senate, which has an economic impact on the state may be referred to the Committee on Economic Development for review. The Committee on Economic Development may hold a further public hearing at the discretion of the Committee.
25. All warrants, subpoenas and other processes issued by order of the Senate shall be under the hand and seal of the President attested by the Clerk.
26. All committees of the Senate, including Senate members on committees of conference, shall consist of members of both parties as nearly equal as possible, provided that on all committees, both parties shall be represented. The President shall appoint the members of all committees, after consulting with the minority leader.
27. The standing committees of the Senate shall be as follows: *The Committee on Finance, Committee on Capital Budget, Committee on Ways & Means, Committee on Banks, Committee on Economic Development, Committee on Education, Committee on Environment, Committee on Executive Departments & Administration, Committee on Fish & Game & Recreation, Committee on Insurance, Committee on Interstate Cooperation, Committee on Judiciary, Committee on Public Affairs, Committee on Public Institutions Health & Human Services, Committee on Rules & Enrolled Bills, and the Committee on Transportation.*
28. Messages shall be sent to the House of Representatives by the Clerk of the Senate.
29. Messages from the Governor or House of Representatives may be received at all times, except when the Senate is engaged in putting the question, in calling the yeas and nays, or in counting the ballots.
30. All questions shall be put by the President, and each member of the Senate shall signify his assent or dissent by answering yea or nay. If the President doubts, or a division is called for, the Senate shall divide. Those in the affirmative on the question shall first rise from their seats and stand until they be counted. The President shall rise and state the decision of the Senate.
31. No person except members of the executive, or members of the House of Representatives and its officers, shall be admitted to the floor of the Senate, except by the invitation of the President, or some member with his consent.

32. The Senate shall adjourn to meet on the subsequent legislative day for the early session at the time mentioned in the adjournment motion. The late session shall immediately follow the early session unless the Senate shall otherwise order.
33. No standing rule of the Senate shall be suspended unless two-thirds of the members present vote in favor thereof. This rule shall not apply to Senate Rule 9.
34. No rule shall be rescinded unless two days notice of the motion has been given and two-thirds of those present vote therefor.
35. The Senate may resolve itself into a Committee of the Whole at any time on motion made for that purpose; and in forming a Committee of the Whole, the President shall leave the chair, and appoint a chairperson to preside in committee.
36. The President when performing the duties of the Chair may, at any time, name any member to perform the duties of the Chair.
37. The staff of the Senate shall be comprised of a clerk, an assistant clerk, a sergeant-at-arms, and a doorkeeper who are to be elected by the Senate, and such other personnel as the President shall appoint. The President shall define the duties of all members of the Senate staff which are not fixed by statute or otherwise ordered by the Senate.
38. Each member of the staff of the Senate shall be available on call to carry out the work of the Senate.
39. The committees shall promptly consider and report on all matters referred to them. The President may authorize such committees having a heavy load of investigation, re-drafting, research or amendments to meet as needed on non-legislative days during the legislative session. The Clerk of the Senate shall prepare a list by number, title and sponsor of all Senate bills and resolutions in committee which have not been acted upon within one week before the deadline established for the transfer of bills and resolutions from the Senate to the House of Representatives, and he/she shall distribute this list to every member of the Senate as soon as it is prepared.
40. Any appeal from the ruling of the presiding officer shall be decided by majority vote of the members present and voting.
41. No new motion shall be admitted under color of amendment as a substitute for the motion under debate.
42. In all instances every member shall act in conformance with the duly adopted Ethical Guidelines and Opinions of the New Hampshire General Court.
43. Action on the floor of a report of the Committee on Finance or a Committee of Conference on either the general appropriations (budget) bill or the capital budget bill, shall not be taken by the Senate, until said report has been available from the Senate Clerk twenty-four hours in advance, in written form. Nongermane amendments and footnotes to such bills (except footnotes in explanation of the principal text of such bills or designating the use or restriction of any funds or portions thereof) are prohibited and shall not be allowed under any circumstances.

44. **PERSONAL PRIVILEGE:** A Senator may, as a matter of personal privilege, defend his/her position on a bill, his/her integrity, his/her record, or his/her conduct, against unfair or unwarranted criticism, or may speak of an issue which relates to his/her rights, privileges or conveniences as a Senator; provided, however, the matters raised under personal privilege shall not be subject to questioning, answer, or debate, by another Senator. Personal Privilege remarks may be included in the Daily Journal if requested by the Senator, and in the Permanent Journal by vote of the Senate. A Senator may speak on other matters of his/her choosing and in such cases may be subject to questioning and/or answer according to the Rules of the Senate.
45. No officer or employee of the Senate during the session or any adjournment thereof shall purchase or contract for the purchase, pay or promise to pay any sum of money on behalf of the Senate or issue any requisition or manifest without the approval of the Senate President.
46. If a drafting request for a bill or resolution has been filed with the office of Legislative Services requiring a fiscal note as provided in RSA 14:44-47, the substance or a draft of the proposal may be provided to the legislative budget assistant for preparation of the required fiscal note without the specific consent of the sponsor of the proposal, provided that the identity of the sponsor shall not be disclosed.

January 18, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

Lord of boundless generosity, show each one here that the opportunities and possibilities you have invested in their lives make them rich beyond all measure. And regardless of how flat our taxes may become, keep our care for and respect of one another fully inflated and deficit free.
Amen

Senator Johnson led the Pledge of Allegiance.

HOUSE MESSAGE

The House of Representatives is organized and ready to meet with the honorable Senate in Joint Convention for the purpose of hearing an address by Presidential candidate Steven Forbes.

Recess for Joint Convention.

Out of recess.

INTRODUCTION OF GUESTS

RESOLUTION

INTRODUCTION OF SENATE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 665 - 666 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 665-FN-A, relative to liquor licenses for a sports/entertainment complex. (Shaheen, Dist 21; Barnes, Dist. 17; Reynolds, Straf. 13: Ways and Means)

SB 666-FN-A, relative to a multi-jurisdictional fuel tax agreement. (Currier, Dist. 7; G. Katsakiores, Rock. 13: Interstate Cooperation)

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 175-FN, relative to cooperative school districts.

HB 275, encouraging businesses to conduct environmental self-audits.

HB 277, relative to the joint health council.

HB 331-L, establishing one elderly exemption to replace the standard elderly exemption and the current optional elderly exemption laws.

HB 420, relative to habitability in manufactured housing parks.

HB 471-FN, relative to the department of corrections, including a corrections impact statement and submission of correctional reports, abolishing the division of adult services, and changing the title of the warden of the department of corrections.

HB 475-L, enabling municipalities to create regional transit districts.

HB 477-FN, regulating motor vehicle leasing.

HB 501-FN-L, relative to public employee collective bargaining.

HB 565-FN-L, establishing a study committee to develop a methodology for reimbursing municipalities which host state facilities and university system properties for the financial impact of such facilities and properties.

HB 606-L, excluding certain welfare recipients from the definition of public employee under the workers' compensation law.

HB 281, relative to admission requirements for the veterans' home and changing the composition of the board of managers.

HB 345-L, relative to voluntary payments in lieu of taxes and establishing a committee to recommend legislative changes regarding voluntary payments in lieu of taxes.

HB 473-FN-A-L, establishing the distance learning commission.

HB 520-FN-L, relative to the regulation of rural electric cooperatives by the public utilities commission.

HB 610-L, integrating changes in the municipal budget act into the laws relating to towns and school districts.

RESOLUTION**INTRODUCTION OF HOUSE BILLS****Senator Barnes offered the following Resolution:**

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 175 - 610 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 175-FN, relative to cooperative school districts. Education Committee

HB 275, encouraging businesses to conduct environmental self-audits. Environment Committee

HB 277, relative to the joint health council. Public Institutions, Health and Human Services Committee

HB 331-L, establishing one elderly exemption to replace the standard elderly exemption and the current optional elderly exemption laws. Public Affairs Committee

HB 420, relative to habitability in manufactured housing parks. Public Affairs Committee

HB 471-FN, relative to the department of corrections, including a corrections impact statement and submission of correctional reports, abolishing the division of adult services, and changing the title of the warden of the department of corrections. Executive Departments and Administration Committee

HB 475-L, enabling municipalities to create regional transit districts. Transportation Committee

HB 477-FN, regulating motor vehicle leasing. Transportation Committee

HB 501-FN-L, relative to public employee collective bargaining. Executive Departments and Administration Committee

HB 565-FN-L, establishing a study committee to develop a methodology for reimbursing municipalities which host state facilities and university system properties for the financial impact of such facilities and properties. Finance Committee

HB 606-L, excluding certain welfare recipients from the definition of public employee under the workers' compensation law. Insurance Committee

HB 281, relative to admission requirements for the veterans' home and changing the composition of the board of managers. Executive Departments and Administration Committee

HB 345-L, relative to voluntary payments in lieu of taxes and establishing a committee to recommend legislative changes regarding voluntary payments in lieu of taxes. Ways and Means Committee

HB 473-FN-A-L, establishing the distance learning commission. Education Committee

HB 520-FN-L, relative to the regulation of rural electric cooperatives by the public utilities commission. Executive Departments and Administration Committee

HB 610-L, integrating changes in the municipal budget act into the laws relating to towns and school districts. Executive Departments and Administration Committee

NOTICE
LEGISLATIVE ETHICS COMMITTEE
Proposed Amendments to Ethics Guidelines

At its meeting on September 27, 1995, the Committee unanimously voted to amend the Ethics Guidelines, subject to approval by the General Court in accordance with RSA 14-B:3, II, to provide for a disclosure checklist at the beginning of each session, and to limit the required disclosure of interests to members and their spouses, rather than immediate families. The amendments, in their entirety, are printed below.

Russell F. Hilliard, Chairperson
Representative Amanda A. Merrill, Vice-Chairperson
Senator Richard L. Russman
Senator John A. King
Representative John J. McCarthy
Shawn N. Jasper

ETHICS GUIDELINES

II DEFINITIONS:

- 1) "Financial Interest" is a reasonably foreseeable *direct* material financial effect, distinguished from its effect on the public generally, on the legislator or [the legislator's immediate family] *his or her spouse*.
- 2) "Conflict Of Interest" is the condition in which a legislator has a financial interest in any official activity.
- 3) "Immediate Family" includes a spouse, guardian, parent, sibling, child or dependent.
- 4) "Legislation" is a bill, resolution or constitutional amendment.
- 5) "Official Activities"[is the conduct of] *are* activities which relate[s] to official responsibilities including the introduction of legislation, testifying before any legislative committee or state agency, voting in committee or in house or senate session or otherwise participating in, influencing, or attempting to influence any decision of the legislature, county delegation or any state agency.
- 6) "Anything Of Value" includes but is not limited to the following:
 - a) A pecuniary item, including money, or a bank bill or note;
 - b) A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
 - c) A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
 - d) A stock, bond, note, or other investment interest in an entity;
 - e) A receipt given for the payment of money or other property;
 - f) A cause of action;
 - g) A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
 - h) A loan or forgiveness of indebtedness;
 - i) A work of art, antique, or collectible;
 - j) An automobile or other means of personal transportation;
 - k) Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;
 - l) A promise of employment or continued employment;

- m) A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as a public official or public employee, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public.

III LEGISLATOR'S FINANCIAL DISCLOSURE FORM:

Every representative, representative-elect, senator, senator-elect, and officer of the House and Senate, shall file with the Secretary of State the following financial disclosure form on or before January 15 of each year [for the preceding calendar year].

1. Identify the name, address, and type of any professional, business, or other organization (including any unit of government) in which the undersigned is or was an officer, director, associate, partner, proprietor, or employee, or served in any advisory capacity, and from which any income (including retirement benefits) in excess of \$10,000 was derived during the preceding calendar year.

2. *Do you have a financial interest, as defined in section II, relating to the following businesses, professions, occupations, groups, or matters? Check any of the following which apply and describe the nature of the interest:*

☐ a) *any profession, occupation, or business regulated by the State of New Hampshire*

☐ b) *health care*

☐ c) *insurance*

☐ d) *real estate, including brokers, agents, developers, and landlords*

☐ e) *banking/financial services*

☐ f) *State of New Hampshire employee*

☐ g) *the New Hampshire Retirement System*

☐ h) *the current use land assessment program*

☐ i) *restaurants and lodging*

☐ j) *the sale and distribution of alcoholic beverages*

☐ k) *the practice of law*

☐ l) *any business regulated by the Public Utilities Commission*

☐ m) *horse or dog racing, or other legal forms of gambling*

DISCLOSURE AND DESCRIPTION OF INTERESTS ON THIS FORM MAY ELIMINATE THE NEED TO FOLLOW THE CONFLICT OF INTEREST PROCEDURE IN SECTION V. IF A SPECIFIC BILL CREATES A CONFLICT OF INTEREST NOT DISCLOSED BY THE INFORMATION ON THIS FORM, A DECLARATION OF INTENT FORM MUST BE COMPLETED AND FILED IN ACCORDANCE WITH SECTION V.

The foregoing information is true to the best of the knowledge and belief of the undersigned.

(Printed name of Legislator)

(Signature of Legislator)

(County/District)

(attach additional sheets if necessary)

V. CONFLICT OF INTEREST PROCEDURE

- 1) *No declaration shall be required if no benefit or detriment could reasonably be expected to accrue to the legislator as a member of a business, profession, occupation, or other group, to any greater extent than to any other member of such business, profession, occupation, or other group, provided that disclosure of the legislator's membership is made pursuant to section III. For purposes of these guidelines, groups shall be limited to ones generally recognized and of substantial size.*
- 2) When a legislator becomes aware that a conflict of interest exists or may exist **and the conditions set forth in subsection V(1) are not met**, the legislator shall proceed in accordance with either paragraph a or b:
 - a) Declare that the legislator will not participate in any official activity associated with the issue.
 - b) Declare that the legislator intends to participate in the official activity and will provide a description of the conflict of interest including:
 - * names of all entities, both public and private, which might be affected;
 - * the nature of any benefit which may accrue to the legislator;
 - * the nature of any financial interest in the issue;
 - * the nature of any relationship which existed, exists or may exist between the legislator and any person or entity which might be affected;
 - * such additional information as may be required to permit clear public awareness and understanding of the nature and extent of the conflict.
- 3) The declaration required in paragraphs a and b of this procedure shall be publicly announced prior to the legislator's initial participation in the official activity. The information required in paragraph b shall be filed with the clerk of the member's respective body within twenty-four hours of the time of the official activity and be made available for public inspection during normal business hours.

SENATOR RUSSMAN: I am not certain what we have to do to adopt this, but I would like to answer and to say a few things about the ethics rules that we have proposed. I realize that some of you still have some questions about these. I will try to answer them and if I can't, my democratic colleague on the committee might be able to answer them. In theory, this

is, hopefully, trying to make it simpler in terms of the filing of what you do or disclosure. I realize the present system we have has worked reasonably well and we are hoping that this new system may make it a little easier for people to deal with potential conflicts of interest. The committee, as you know, has studied this for a considerable amount of time. I would be happy to entertain questions that you may have at this point. I personally would prefer to have a little more time to work on it, but we are under a bit of a deadline, so I wanted to speak with you about it today at this time, and this is the last day that we can speak about it at this particular point. So if there are questions about it, I will try to answer them.

SENATOR SHAHEEN: Could you just go through and explain to us the major changes that have been made since the previous bill?

SENATOR RUSSMAN: Yes, I can do that. As you know, right now what has to happen, if a bill comes up that you see a potential conflict of interest, you have to go to the clerk in advance and ask her for a form, fill out the form, say that there is a conflict of interest, what the conflict is, if you decide to continue on and vote on that particular matter. If you are not going to vote on that matter, you just have to fill out that there is a conflict and leave it at that or you are not going to participate and that is the end of that. What precipitated this was, frankly, that somebody brought before us the issue of current use. That is the reason why we are at this point. Frankly, if that hadn't been brought before us, I suspect we would still be under the present method of doing it because that is what we have been working under and it has worked really well, but somebody brought up the issue of current use. Many of us have voted on current use without even thinking that there was a conflict of interest because we were members of such a wide number of people in the state that had land in current use, so we didn't think it affected us one way or the other. Well, the committee studied this and took a huge amount of testimony, probably more on that than any other single issue that we have been involved in. There was a lot of controversy over it as to whether current use should or should not be considered a conflict of interest. The committee, somewhat reluctantly, came down on the side that yes, there was a potential advantage to those members that had land in current use, voting in current use legislation, and that that would represent a conflict of interest and, therefore, those members could conceivably be in violation of the ethical guidelines and could be subject to having somebody file a complaint against you if you were to vote on current use rules, laws, changes in the future. So we got looking at that and decided that was quite a burden to put on people, we thought. So then when the people proposed that it might just be easier if you had different people's occupations and so on listed on the front end and going into the session each time and you could just say what they are, list them and check them off and then there wouldn't be any conflict of interest if you voted in the general scheme of things; however, and this is, to some degree, where there is still a potential for a pitfall, if you will, for getting into problems. If something comes along that is specific to you or your business or what have you, even though you have filled out one of these things, it would behoove you to consider that a particular conflict of interest and still file a conflict of interest form if there is a material gain or advantage for you on that particular item in that narrow field. The example that I suppose I could try to give you is if you had some kind of a business and for some reason it affected your business and no other businesses or companies,

then that might be a very blatant conflict of interest; so therefore, I think, it would be on the safe side to do a filing. The difficult part of the Ethics Committee, really, is trying to find consensus because, as you know, we get paid \$100 a year for what we do and it doesn't seem as though it is reasonable to make it onerous to have to go through the disclosure end of what we do. So that is what we made an effort to do and this is a step towards . . . I, myself, believe there will be additional provisions or additional things come down the road, because I don't think this is probably the end of the line with this at all. I think this is going to be an evolutionary process because it isn't a simple matter. It is somewhat complicated. I don't know if that answers your question. It's kind of a long way to get to your answer.

SENATOR LOVEJOY: Senator Russman, as we always do at the beginning of sessions, we fill out and sign the ethics form. Is that TAPE IN-AUDIBLE.

SENATOR RUSSMAN: That also is in addition to this form. I realize that makes it that much more complicated in terms of dealing with it, but that is in terms of whether or not you have an interest of ten thousand dollars or more from any sources or what your income may be. You have to list that as a form of disclosure. In some respects, maybe in certain areas where it involves money, that should be enough, but this is an additional step beyond that and it does make it a bit more confusing in that respect.

SENATOR LOVEJOY: When will this take effect?

SENATOR RUSSMAN: Well, originally, we thought that it would take effect this year. I made an effort, frankly, because I received a couple of calls yesterday afternoon, to try to get hold of the chairman, Russ Hilliard. Yesterday I called his office and he had already left and he had an unlisted phone number I guess. This morning I tried about seven o' clock and I wasn't able to reach him. Perhaps John King may have some thoughts on that. I believe that it would take effect next year because we had in there, originally, January 15 and it does talk about the beginning of each session and we have already had the beginning of session, so I don't see how it could be held to this year. The committee hasn't met to actually put that to a vote, if you will, as far as when that would happen. In all honesty, I would have to say it is my impression, and I don't know if Senator King would say the same thing. We don't have, unfortunately, a definitive answer for you.

SENATOR J. KING: I agree with what Senator Russman has said. It did start from the one topic of current use and the result TAPE INAUDIBLE they would be the only ones that would have to be listing it. They said that rather than fit it into the same category, so as a result that is how this grew and grew and grew. We all thought in the end it was much simpler to file it beforehand. You are on there and you don't have to worry about it afterwards and if you do, or if you missed one and something comes up, then you have to add to it.

SENATOR DELAHUNTY (In the Chair): Did you address the issue of timing?

SENATOR J. KING: The issue of timing? I wouldn't imagine that it would start, unless you wanted to do it earlier, but I would think probably the beginning of next year.

SENATOR DELAHUNTY (In the Chair): In 1997?

SENATOR J. KING: Yes.

SENATOR STAWASZ: In the beginning of this, there has been a change in item number one, where you removed the legislator or the legislator's immediate family and replaced the immediate family with his or her spouse. Unfortunately, there is still a definition of "immediate family" in item three and I wonder if that was an oversight in not cleaning that out when you made the earlier change or whether that was still intended to be part of it. For example, I've had a foster child. He would have been considered a dependent. Would that have required my disclosure of that relationship in any bills governing HHS that affect foster care or things of that nature?

SENATOR J. KING: We had "immediate family" first because we wanted to include everyone. But then we asked where does the immediate family stop? It kept going and going and going. So then we decided to say "person" and "spouse." It needs to be taken out of there.

SENATOR RUSSMAN: TAPE CHANGE sometimes a full committee because these are a little bit confusing in terms of where it begins and where it ends. I always have taken the position - as a matter of fact, when some of you members have come to me and asked me, on a particular bill, do you think that I should file, I have always gone by the theory of if you have to ask the question, I file. That is the safest thing to do. You can't ever get in trouble for filing, but if you don't file, you may run the risk. That is an area TAPE INAUDIBLE

SENATOR GORDON: The language that I read here appears to be inconsistent. It says that you have to file each year prior to January 15. It says, "January 15 of each year for the preceding calendar year." Now my understanding of how this was to work was that you would file in advance to avoid having to file conflict of interest forms. The way this appears to read is that you file after the fact. It seems to me that wouldn't give people an adequate opportunity to challenge you if, in fact, you did have a conflict.

SENATOR RUSSMAN: I am not sure of the answer to your question.

SENATOR J. KING: I would think that it would be just the opposite, for the year coming up, maybe preceding and proceeding. TAPE INAUDIBLE I would take it for the year. In other words, if I file on January 1 of this year, what is gone by is gone by. I am filing for up-coming year. I would imagine that is the intent of this.

SENATOR GORDON: I understand that that is the intent, but that is not what it says.

SENATOR J. KING: I agree with you. You are right. I think that needs to be changed.

SENATOR GORDON: If, in fact, this isn't going to go into effect until next year, wouldn't it be a good time to table this and correct it, so that it will be correct when it goes into effect?

SENATOR J. KING: I personally would say that if you have anything to correct, now would be the time to do it. This is the third or fourth time that this has been in the calendar and that is why it has taken so long to get here this time. So if you have anything to change, do it now. Then we can come back again, possibly, and be ready before January.

SENATOR RUSSMAN: I think the problem is I don't . . . we can make any changes, that is no problem, but I guess . . . Well, I would say this.

If the body feels we should intentionally table it, I would be prepared to come back to you while we are still in session here to try to answer some of the questions and so on and so forth and to hold a hearing because obviously it is not . . . the committee's intent here is not to force or . . . we want a consensus. We want a broad consensus. That is very important, I think because it's got to be something that people feel comfortable with in terms of this whole process. So if the body wants to do that . . . If we are saying that it is not going to take effect until next time, then we have time between now and the next time. Had this taken effect this year, obviously, we wouldn't have time, but the sense is and both Senator King and myself feel that it will be next time. We certainly have time this session, during this session, while everyone is here and that is what I would like to do because I think the idea is we all want something in place for next session, so that people who are reelected or elected know the rules did not change in midstream and so on and so forth.

SENATOR WHEELER: Senator King, on letter "g" on the ethics guidelines here, would you give us a definition of what "chattel" is? I am not familiar with that term.

SENATOR J. KING: On what page is that?

SENATOR WHEELER: Page eleven, item g. The last word in the sentence.

SENATOR RUSSMAN: Maybe it is suppose to be cattle. No, I am kidding. It is pretty important. We have it in there twice, I see. It is in there twice on the same line. It has to do with goods. Essentially it means goods. Okay? In other words, it is undefined goods like . . . like cattle, you know? If you had a bunch of cattle, it would be a bunch of chattel, you know?

SENATOR J. KING: I will tell you what it is. It's a lawyer's term.

SENATOR RUSSMAN: Right.

SENATOR WHEELER: He had to slip that one in there, Rick.

SENATOR F. KING: I read that and I thought that it was just me that couldn't understand it, but based on the conversation, I move that this be tabled.

Recess.

Out of recess.

SENATOR DELAHUNTY (In the Chair): I had a concern about the tabling motion because I knew that there were a lot questions that still remained. There is a lot of confusion out there, but in talking to Senator King, Senator Russman has agreed that we will take the vote on the tabling motion now and they will go back and hold a hearing and try to get these questions answered. When they find out, it will come back here at a later date.

Senator F. King moved to have the proposed amendment to The Ethics Guidelines laid on the table.

Adopted.

LAI D ON THE TABLE

The proposed amendment to The Ethics Guidelines is laid on the table.

Recess.

Out of recess.

COMMITTEE REPORTS

SB 549, an act relative to the children's trust fund. Banks Committee. Vote: 5-0. Ought to pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, there is probably no project dearer to Senator Podles' heart than the children's trust fund. It was unanimous in our committee that the deadline for fulfilling the pledges that have already been made should be extended. We would urge the Senate to adopt the committee report.

Adopted.

Ordered to third reading.

SB 519, an act repealing the sunset provision of the driver attitude training program. Education Committee. Vote: 5-0. Ought to pass. Senator J. King for the committee.

SENATOR J. KING: SB 519 will eliminate the repeal date currently in statute concerning the driver attitude program. The Senate, in the past, has extended the deadline. It is a good program, and I urge adoption.

Adopted.

Ordered to third reading.

SB 631, an act extending the reporting date of the retail wheeling and electric utility restructuring committee. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: You might be shocked, but this is one of the easiest electric bills that we will have. This was requested by the Task Force Committee to give a final date on the final report. It was unanimously voted in the committee. There was no opposition, so I would ask the Senate to support the committee on SB 631.

Adopted.

Ordered to third reading.

SB 657, an act extending the deadline of the employee assistance program study committee. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: The committee would request that you support the committee for this extension of this study committee. There was no opposition and it is another easy bill.

Adopted.

Ordered to third reading.

SB 512, an act relative to the definition of "employee" under the workers' compensation statute. Insurance Committee. Vote: 6-0. Inexpedient to legislate. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this bill was introduced by Senator Rubens on behalf of one of his constituents. The constituent has subsequently gone out of business, so the committee was unanimous in believing that there was no need for pursuing the matter further. We would urge the Senate to vote inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 578, an act relative to the interception and disclosure of wire or oral communications by emergency personnel. Judiciary Committee. Vote: 5-0. Ought to pass. Senator Cohen for the committee.

SENATOR COHEN: Under current law, municipal fire and police departments and any independently owned emergency service may, when receiving or responding to emergency calls, intercept, record, disclose or use a wire communication while engaged in any activity which is a necessary incident to the rendition of service in the protection of life and property. Basically what this bill does is extend that right to county and state fire or police departments, as well as to the Bureau of Emergency Communications, also known as the enhanced 911 system. This bill provides a good, logical and necessary tool for life saving and law enforcement agencies. I urge your unanimous support. Thank you.

Adopted.

Ordered to third reading.

SB 618, an act relative to extended terms of imprisonment for certain DWI offenses. Judiciary Committee. Vote: 5-1. Ought to pass. Senator Pignatelli for the committee.

SENATOR PIGNATELLI: SB 618 allows the court to sentence a person to an extended term of imprisonment if the person is convicted in another state of certain motor vehicle offenses or certain DWI offenses. The imprisonment time now is three and one-half to seven years and it could be raised to ten to thirty years in state prison. I might also mention that the vote on this reads five to one, but it really was five to zero. I urge passage of this bill.

Adopted.

Ordered to third reading.

SB 509, an act relative to OHRV use on private property. Transportation Committee. Vote: 7-0. Ought to pass. Senator Gordon for the committee.

SENATOR GORDON: Currently under the law, operators of off highway recreational vehicles are required to obtain permission from private property owners before operating their vehicles on the property. However, if they do not acquire permission, there is a possibility that they could acquire prescriptive rights to continue using the property. This bill would prohibit those people who operate their vehicles in violation of the law from acquiring prescriptive rights to continue using private property. The bill was passed out of committee unanimously seven to nothing.

Adopted.

Ordered to third reading.

SB 566-FN, an act requiring transporters of hazardous material to maintain transportation liability insurance coverage. Transportation Committee. Vote: 7-0. Ought to pass with amendment. Senator Gordon for the committee.

4350L

Amendment to SB 566-FN

Amend RSA 21-P:20-a as inserted by section 2 of the bill by replacing it with the following:

21-P:20-a Insurance Required. Transporters of hazardous material within the state of New Hampshire shall maintain transportation liability

ity insurance coverage of not less than \$1,000,000. The commissioner shall establish, by rules adopted under RSA 541-A, a procedure for insuring compliance with this section.

SENATOR GORDON: SB 566 requires all transporters of hazardous material to maintain liability insurance coverage of not less than one million dollars. The current law requires insurance coverage only for vehicles over 10,000 pounds gross vehicle weight, excluding a potentially large number of vehicles from this requirement. The committee feels this bill is necessary in order to protect the public in the event of a hazardous material accident. The bill gives the Department of Safety rulemaking authority to oversee this process. The committee amendment is a housekeeping measure that simply includes a reference to the rulemaking statute. The Transportation Committee unanimously recommends this bill for passage.

Amendment adopted.

Ordered to third reading.

SB 581-LOCAL, an act relative to the Derry local exit on I-93. Transportation Committee. Vote: 4-3. Ought to pass. Senator Russman for the committee.

SENATOR RUSSMAN: Yes, this is a good bill for Londonderry and Derry. You can imagine that at one time they had in there that you couldn't use federal or state funds for an exit and this will eliminate that provision in the law. We would ask for support on that.

Adopted.

Referred to Capital Budget (Rule #24).

SB 593-FN-A, an act authorizing a study of the feasibility of reconstructing New Hampshire Route 125 from the Massachusetts state line to Rochester, New Hampshire, and making an appropriation therefor. Transportation Committee. Vote: 7-0. Ought to pass. Senator Russman for the committee.

SENATOR RUSSMAN: This is another great bill. This one should probably go to Finance or somewhere. George Lovejoy and myself have been working on this for some time. George came up with the idea to have a study of Route 125 in Plaistow, which is my district, right up through Jack Barnes' district, all the way up to Rochester, thirty two miles on Route 125. And anyone that knows Route 125 knows it is virtually an awful road in terms of traveling it. So we would ask that the study committee be able to go forward. The only one that didn't like it was Leon Kenison, as you can imagine, but everyone else testified in favor of the bill. The road needs some work and we would ask that a study begin on it. Frankly, a lot of the information is already available through the regional planning association to take care of this, so we don't believe that it will be quite as expensive as they had suggested. I think they have a \$150,000 appropriation on it, but I don't think it's going to be that much.

Adopted.

Referred to Capital Budget (Rule #24).

SB 630-FN, an act relative to outdoor advertising devices and permit fees. Transportation Committee. Vote: 5-2. Ought to pass with amendment. Senator F. King for the committee.

4260L

Amendment to SB 630-FN

Amend RSA 236:74, V as inserted by section 2 of the bill by replacing it with the following:

V. Number Limited. Notwithstanding any other provision of law, the total number of outdoor advertising permits allowed under this chapter shall not exceed 600.

SENATOR F. KING: Mr. President and members of the Senate, SB 633 is a vegetation maintenance program for off-premise outdoor advertising devices commonly known as billboards. This bill is the result of a study committee that met this past summer on numerous occasions. The committee worked with those opposing forces that have concerns about this issue to obtain what is believed to be the best possible solution for this recurring issue. If you remember, last year the Senate passed a bill very similar to this one. Specifically, SB 630 allows the Department of Transportation to issue clearing permits for obstructive billboards. Under permit agreements, the billboard's owner would have only one opportunity to clear trees. Each tree removed must be replaced by another tree measuring two inches in diameter. In addition, the bill places a cap on billboards at 600. So for the first time there will be a statutory cap on the number of billboards in the state. Once this number has been obtained no more advertising devices will be constructed. The committee amendment is very simple. It changes the word "devices" to "permits" so as to avoid any confusion in the counting of billboards. The committee recommends this bill as ought to pass as amended and I do have a floor amendment over an issue that came up yesterday.

SENATOR SHAHEEN: Senator King, under this bill, the way it's written, can you tell me if the commissioner would have the authority to deny permits if he determined that they would be adverse to the environment in a particular area?

SENATOR F. KING: Deny permits or to deny the right to clear in front of billboards?

SENATOR SHAHEEN: I assume it would be that you have to have a permit for clearing, so I assume he'd have to deny a permit . . .

SENATOR F. KING: No, he would be required to grant the permit. He would have an opportunity to make sure that the clearing was done in a way that was acceptable to him and it would be a plan approved by a landscape architect and the vegetation would have to be placed in that way. And it would only be a one-time permit. After that the owner of the billboard would be required to maintain the vegetation in a manner that is satisfactory to the commissioner.

SENATOR SHAHEEN: What happens if the owner doesn't maintain it and who is going to police it, the Department of Transportation?

SENATOR F. KING: If he doesn't maintain it, the trees will grow up in front of it and that will be the end of the billboard. The owner will be required to maintain it if he so wishes. But if he doesn't maintain it, he is only going to have an opportunity for this clearing once. It is a one-time permit.

SENATOR SHAHEEN: I guess what I am confused about is the violation section, Roman VIII on page 2, which talks about the fact that anybody who violates the provisions of this section shall be guilty of a misdemeanor or a felony?

SENATOR F. KING: Would you point that out to me again, please?

SENATOR SHAHEEN: Line 23 on page two.

SENATOR F. KING: If a person clears in front of a billboard in a way that is not acceptable or if they go about clearing a billboard without first going through the process and getting approval, then that would be a violation of this section. Presumably they would then be guilty of a misdemeanor. So the fact that before the process can go forward, there has to be permission from the Department of Transportation. They have to approve the plan and the work has to be done by someone who is on the list that is approved by the Department of Transportation.

SENATOR SHAHEEN: I understand that, but what I am asking here is . . . you answered one part of it, but are we assuming, and was there testimony to the fact that we are assuming that the Department of Transportation is also going to have the authority of policing whether or not people maintain the billboards in the manner in which the permit designated? And if so . . . ?

SENATOR F. KING: What I am assuming is that if there is a violation the Department of Transportation will make sure that it is brought to the proper authority and they will take care of it. I don't think that the Department of Transportation is going to arrest anyone, but they could cause it to happen.

SENATOR SHAHEEN: That is what I was asking.

SENATOR JOHNSON: Senator King, how many billboards do we have currently in the state of New Hampshire?

SENATOR F. KING: It depends on who you ask and what day that you ask them. Probably somewhere in the neighborhood of 580. This will cap it at 600.

SENATOR RUBENS: On top of page two, item e, I think I understand what that item means, but just to be clear, the description of the allowable cleared area perpendicular from the edge of the sign closest to the road and then to a point 200 feet along the road. It doesn't specify in which direction along the road, so I just wanted to be clear that it means in one direction, perhaps the direction against the flow of traffic? Perhaps that can be clarified.

SENATOR F. KING: What it does is that it allows an area to be cleared that enables the sign to be seen in the direction in which the people would be approaching it, but it restricts it to the total length that can be cleared in any event. That will be part of the plan that will be developed by the landscape architect in an attempt to make sure that there isn't an unusual amount or too much clearing taking place.

Amendment adopted.

Senator F. King offered a floor amendment.

4367L

Floor Amendment to SB 630-FN

Amend RSA 236:72-b, VII as inserted by section 1 of the bill by replacing it with the following:

VII. The commissioner of transportation shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Application procedure and criteria for approval of a vegetation control permit issued under this section, including approval of the location of replanted trees, the approval of a landscape plan, and for relocation under paragraph IV of advertising devices.

- (b) Procedure and criteria for placing firms on, and removing them from, the approved vendor list under subparagraph II(a).
- (c) Oversight procedure under paragraph III.
- (d) Vegetation control permit fee under paragraph III.
- (e) Procedure and criteria for approval of a one-year extension under paragraph VI to the vegetation control permit.
- (f) Any other matter necessary for the administration of this section.

SENATOR F. KING: There is an amendment being passed out and while it is being passed out I will tell you that yesterday afternoon Legislative Services contacted me. They had a problem with one section of the bill that has to do with the rulemaking process. I will call your attention to page two, line 17 through 22, Roman VII. Legislative Services feels this new language addresses the proper method of the issue of how the rules would be adopted. That is the purpose of this amendment. It doesn't change the intent of the agreement that we have reached, it just outlines how the rules work.

Floor amendment adopted.

Ordered to third reading.

SB 555-FN-A-LOCAL, an act authorizing the sweepstakes commission to establish video lottery game machines and allow electronic games of chance at racetracks and making certain appropriations. Ways and Means Committee. Vote: 5-2. Inexpedient to legislate. Senator Barnes for the committee.

SENATOR BARNES: SB 555 would authorize the Sweepstakes Commission to establish video lottery game machines and allow electronic games of chance at racetracks. Simply, the committee felt that the climate is not right for this type of legislation at this time.

Senator Fraser moved to have **SB 555-FN-A-LOCAL**, an act authorizing the sweepstakes commission to establish video lottery game machines and allow electronic games of chance at racetracks and making certain appropriations, laid on the table.

Adopted.

LAI D ON THE TABLE

SB 555-FN-A-LOCAL, an act authorizing the sweepstakes commission to establish video lottery game machines and allow electronic games of chance at racetracks and making certain appropriations.

SB 650-FN, an act exempting real and personal property of a decedent from the legacies and successions tax when such property passes to or for the use of the siblings of the decedent. Ways and Means Committee. Vote: 7-0. Inexpedient to legislate. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, SB 650 would exempt real and personal property of a decedent from the legacies and successions tax when such property passes to or for the use of siblings of the decedent. The testimony given by the Department of Revenue Administration during the public hearing indicated the fiscal note currently attached to this bill is inaccurate. According to the department, the actual fiscal impact would be substantially greater than the \$1.6 million. The committee agreed that we are not ready **TAPE CHANGE** We urge the Senate to support the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

Senators Stawasz and Wheeler in opposition to the motion of inexpedient to legislate on SB 650.

SB 652-FN, an act authorizing the sweepstakes commission to establish a pilot program for electronic games of chance. Ways and Means Committee. Vote: 5-2. Inexpedient to legislate. Senator Danaïs for the committee.

SENATOR DANAIS: SB 652 would authorize the sweepstakes commission to establish a pilot program for electronic games of chance. The committee felt that the climate is not right for this type of legislation and we recommend that it be voted inexpedient to legislate and we urge the Senate to do the same.

Senator Fraser moved to have **SB 652-FN**, an act authorizing the sweepstakes commission to establish a pilot program for electronic games of chance, laid on the table.

Adopted.

LAI D ON THE TABLE

SB 652-FN, an act authorizing the sweepstakes commission to establish a pilot program for electronic games of chance.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 115, preventing strategic lawsuits against public participation.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 115, preventing strategic lawsuits against public participation.

Senator Podles moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 130, relative to the Uniform Trustees' Powers Act.

SENATE NONCONCURS WITH HOUSE AMENDMENT REQUESTS COMMITTEE OF CONFERENCE

SB 130, relative to the Uniform Trustees' Powers Act.

Senator Colantuono moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as said members of the Committee of Conference:

SENATORS: Fraser, Colantuono, Blaisdell.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 159-FN, establishing the department of youth development services, transferring responsibility of the youth services center and youth development center from the division for children, youth, and families to the department of youth development services and abolishing the bureau of residential services, division for children and youth services.

SENATE NON CONCURS WITH HOUSE AMENDMENT

SB 159-FN, establishing the department of youth development services, transferring responsibility of the youth services center and youth development center from the division for children, youth, and families to the department of youth development services and abolishing the bureau of residential services, division for children and youth services.

Senator Wheeler moved nonconcurrency.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bill sent down from the Senate:

HB 486-FN, relative to lease agreements for state equipment.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourned until Thursday, January 25, 1996 at 10:00 a.m.

Adopted.

ANNOUNCEMENTS

LATE SESSION

Third Reading and Final Passage

SB 509, an act relative to OHRV use on private property.

SB 519, an act repealing the sunset provision of the driver attitude training program.

SB 549, an act relative to the children's trust fund.

SB 566-FN, an act requiring transporters of hazardous material to maintain transportation liability insurance coverage.

SB 578, an act relative to the interception and disclosure of wire or oral communications by emergency personnel.

SB 618, an act relative to extended terms of imprisonment for certain DWI offenses.

SB 630-FN, an act relative to outdoor advertising devices and permit fees.

SB 631, an act extending the reporting date of the retail wheeling and electric utility restructuring committee.

SB 657, an act extending the deadline of the employee assistance program study committee.

Senator J. King moved that the business of the day being completed, that the Senate now adjourn until Thursday, January 25, 1996 at 10:00 a.m.

Adopted.

Adjournment.

January 25, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones the Senate Guest Chaplain.

Lord of the long haul, walk with us across the terrain of our responsibilities this day. May we be patient enough to not expect to cover the whole distance in a single afternoon, but persistent enough that we do not tolerate simply moving in place. Help these twenty-four government insiders lead those of us on the outside in ways that keep us both moving ahead as well as moving together. Amen

Senator Fraser led the Pledge of Allegiance.

SENATE INTERNS

Laurie Alves - Senator Larsen
 Lauren Jaye Birnbaum - Senator Cohen
 Reno Burnett - Senator Fraser
 Michael Gaudreault - Senator Stawasz
 Matthew S. Hill - Senator Colantuono
 Alexander Kellogg - Senator Rubens
 Joshua D. King - Senator John King
 Michael LeBreux - Senator Danais
 Ryan Andrew McPherson - Senator Wheeler
 Knar A. Nahikian - Senator Lovejoy
 Ashley Page - Senator Shaheen
 Kyle Sadlock - Sen. Podles
 Jim Sellers - Sen. Rodeschin
 Stacy Brown - Finance
 Michael Sullivan - David Harrington
 Walter Y. Root - Senate Research

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

SB 571-LOCAL, an act relative to speech-language pathologists in the schools. Education Committee. Vote: 7-0. Ought to pass with amendment. Senator Lovejoy for the committee.

4454L

Amendment to SB 571-LOCAL

Amend the bill by inserting after section 13 the following and renumbering section 14 to read as 15:

14 Committee Established to Study Issues Relating to Speech-Language Pathology Services in School.

I. A committee is established to study how speech-language pathology services should be provided to local school districts. The committee shall consist of the following members:

(a) Three members of the house of representatives, appointed by the speaker of the house.

(b) Three members of the senate, appointed by the senate president.

II. The committee shall issue a report, including the plan for implementing such program, along with recommendations for proposed legislation necessary for implementation, to the senate president, the speaker of the house, the senate clerk, the house clerk, the state library, the house and senate education committees, and the department of education no later than November 1, 1996.

III. The first-named house member shall call the first meeting within 30 days of the effective date of this act.

IV. Members of the committee shall serve without compensation, except for mileage reimbursement at the legislative rate when attending to the duties of the committee.

AMENDED ANALYSIS

Sections 2 and 6 of this bill exempt speech-language pathologists employed by local school districts from licensing requirements, and authorize the state board to certify such school speech-language pathologists.

Section 14 of this bill establishes a committee to study how speech language pathology services should be provided in local school districts.

The remainder of this bill amends certain RSA provisions making them gender neutral and consistent with other sections amended by the bill in accordance with RSA 17-A:6 relative to gender neutral drafting.

Sections 2 and 6 of this bill are a request of the department of education.

SENATOR LOVEJOY: TAPE INAUDIBLE.

Amendment adopted.

Ordered to third reading.

SB 579, an act relative to the membership of the teacher professional standards board. Education Committee. Vote: 7-0. Inexpedient to legislate. Senator Roberge for the committee.

SENATOR ROBERGE: TAPE INAUDIBLE.

Committee report of inexpedient to legislate is adopted.

SB 592-FN-LOCAL, an act relative to the minimum annual school building aid grant to a school district. Education Committee. Vote: 7-0. Ought to pass with amendment. Senator Larsen for the committee.

4453L

Amendment to SB 592-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a committee to study the distribution of school building aid.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established; Purpose; Membership. A committee is established to study the distribution of school building aid in the state of New Hampshire. The committee shall consist of the following members:

I. Three members of the house of representatives, 2 of whom shall be members of the house education committee, appointed by the speaker of the house.

II. Three members of the senate, 2 of whom shall be members of the senate education committee, appointed by the senate president.

2 Duties; Report. The committee shall study the distribution of school building aid in the state of New Hampshire including:

I. The state continuing to encourage the formation of cooperative school districts.

II. Using school building aid to renovate and upgrade existing school facilities versus building new school facilities.

III. Investigating the concept of year round schooling and its impact on school building costs.

IV. Any other related issues.

V. Issue a report, along with recommendations for proposed legislation, to the senate president, the speaker of the house, the senate clerk, the house clerk, the state library, the house and senate education committees, and the department of education no later than November 1, 1996.

3 Meetings; Compensation.

I. The first-named senate member shall call the first meeting within 30 days of the effective date of this act, and the committee shall elect a chairperson.

II. Members of the committee shall serve without compensation, except for mileage reimbursement at the legislative rate when attending to the duties of the committee.

4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a committee to study the distribution of school building aid and related issues.

SENATOR LARSEN: TAPE INAUDIBLE.

Amendment adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives is ready to meet with the honorable Senate in Joint Convention for the purpose of attending to the remarks of presidential candidate Lamar Alexander.

Recess for Joint Convention.

Out of recess.

SB 599, an act providing that school nurses shall be authorized to administer epinephrine for the emergency treatment of anaphylaxis, and setting forth the duties of school nurses in the control and prevention of communicable disease. Education Committee. Vote: 7-0. Ought to pass with amendment. Senator Stawasz for the committee.

4455L

Amendment to SB 599

Amend the title of the bill by replacing it with the following:

AN ACT

providing that school nurses shall be authorized to possess and administer certain drugs for disease prevention and emergency treatment, setting forth the duties of school nurses in the control and prevention of communicable disease, and requiring an education and monitoring component for regulating medication administration in a hospice house.

Amend the bill by replacing all after section 1 with the following:

2 New Paragraph; School Nurses Authorized to Possess and Administer Certain Drugs. Amend RSA 318:42 by inserting after paragraph VII the following new paragraph:

VII-a. The possession and administration, with written parental authorization of flu vaccine, immunizations, and mantoux tests for the purpose of disease prevention and tuberculosis screening, and epinephrine for the emergency treatment of anaphylaxis by registered nurses employed or contracted by public school systems.

3 Medication Administration Program at a Hospice House. Amend RSA 326-B:17, IX(a)(2) to read as follows:

(2) Has successfully completed [a medication administration program] ***an educational course which is part of the medication administration program*** approved by the board of nursing and conducted by [a] registered [nurse] ***nurses*** licensed under this chapter. The board of nursing shall adopt rules, pursuant to RSA 541-A, relative to the criteria for the medication administration program [and], ***including criteria for an education course***, the process [of] ***for*** approval [for a] ***of*** registered [nurse] ***nurses*** to conduct the [program] ***course and regulations for the monitoring of medication-authorized personnel in the administration of medications at the hospice house.***

4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

Sections 1 and 2 of this bill provide that school nurses shall be authorized to possess and administer with written parental authorization certain drugs for disease prevention and emergency treatment, setting forth the duties of school nurses in the control and prevention of communicable disease.

Section 3 of this bill requires an education and monitoring component as part of the medication administration program required to administer medication at a hospice house.

Sections 1 and 2 of this bill are a request of the department of education. Section 3 is a request of the board of nursing.

SENATOR STAWASZ: It is a pleasure to educate my colleagues in medical terminology. SB 599 enables school nurses to better deal with emergencies that may arise in the schools. Right now the possession and administration of epinephrine for anaphylaxis, which is commonly known as a shock, bee sting type injury, is limited to prescribed situations. The danger with the practice lies in the event a student has a reaction to an unknown allergy. Without this bill the school nurse would not be allowed to possess and administer this life-saving drug in this circumstance. The bill also allows teachers to possess and administer drugs such as immunizations against tuberculosis, the mantoux test and further sets forth the duties of school nurses in the control and prevention of communicable diseases. It is a request of the department of education. The committee voted 7 to 0 ought to pass as amended. The amendment on there regarding hospice merely legalizes an existing practice.

Amendment adopted.

Ordered to third reading.

SB 600-FN, an act clarifying the authority of the division of air resources to issue facility-wide permits for sources not subject to Title V. Environment Committee. Vote: 5-0. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: SB 600 promotes efficiency at the Department of Environmental Services. This bill allows the Division of Air Resources to issue facility-wide permits for emissions sources not subject to the regulations under Title V of the Clean Air Act. Currently, the division

issues separate permits for each device within a facility. Allowing the division to issue facility-wide permits streamlines the process for both DES and the private sector. The Environment Committee recommends this bill ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 583, an act requiring the Coos county commissioners to be elected on a rotating basis. Executive Department and Administration Committee. Vote: 5-0. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: SB 583 is just doing what some other counties are doing and that is electing county commissioners on a rotating basis. Sullivan County was the first county to elect to use this process and it works well for us and the committee would ask you to support SB 583.

Adopted.

Ordered to third reading.

SB 617-LOCAL, an act enabling appointment of sewer commissioners and the establishment of municipal boards of public works commissioners. Executive Department and Administration Committee. Vote: 4-0. Ought to pass with amendment. Senator Colantuono for the committee.

4412L

Amendment to SB 617-LOCAL

Amend RSA 38-B:3 as inserted by section 1 of the bill by replacing it with the following:

38-B:3 Appointment. The commissioners may be appointed by the mayor and board of aldermen or city council, by the selectmen of the town, by the town council, or by the commissioners of the district if the municipality fails to elect or votes to provide for appointment.

Amend RSA 149-I:20-a as inserted by section 2 of the bill by replacing it with the following:

149-I:20-a Appointment. The commissioners may be appointed by the mayor and board of aldermen or city council, by the selectmen of the town, by the town council, or by the commissioners of the district if the municipality fails to elect or votes to provide for appointment.

AMENDED ANALYSIS

This bill allows the selectmen, town council, village commissioners, or mayor and aldermen or city council to appoint the sewer commissioners if the municipality fails to elect them or votes to allow appointment.

The bill also allows municipalities to establish a single board of public works commissioners to perform the duties of sewer commissioners, gas, electric or waterworks commissioners, and highway agents.

SENATOR COLANTUONO: This bill sets up a new law allowing for the establishment of municipal boards of public works commissioners and allows either for their election or for their appointment. The amendment simply adds the term "town council" as one of the bodies that can elect or appoint such a board.

Amendment adopted.

Ordered to third reading.

SB 639, an act limiting the fees charged by ticket agencies. Fish and Game/Recreation Committee. Vote: 3-0. Inexpedient to legislate. Senator Cohen for the committee.

SENATOR COHEN: The committee felt that this bill was unnecessary. Right now people pay a premium for a service. We felt that this might interfere with the law of supply and demand. Where there is demand and not much supply, the people can charge a premium for it. People know the face value of the tickets and we felt that this SB 639 should be inexpedient to legislate.

SENATOR BLAISDELL: I am sorry, Mr. President, I realize what the testimony was and it is tough to get into the private enterprise thing, but I think that it is unconscionable some of the prices that are being charged. We are taking away from some of our kids, the right to go in and see a few ballgames. I had some people call me the other night that wanted to take their two children and it was \$65 a ticket for the four of them. I think that is unconscionable and I think that maybe we ought to go on record in this senate as probably trying to open up the process and let them know that we are deeply concerned about this. I think that our youths are being deprived of being able to go and see some of the great athletes in this country. I want to go on record saying that in front of the senate and hope that they get the message.

Committee report of inexpedient to legislate is adopted.

SB 503, an act relative to the crime of harassment. Judiciary Committee. Vote: 6-0. Inexpedient to legislate. Senator Wheeler for the committee.

SENATOR WHEELER: This bill was a result of a constituent concern. The committee analyzed the bill and decided that it really didn't answer the constituent's concern, so we unanimously would ask that this bill be inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 565, an act establishing a committee to study the feasibility of amending the New Hampshire incorporation statutes in such a way as to make New Hampshire the incorporation haven of the nation. Judiciary Committee. Vote: 6-0. Inexpedient to legislate. Senator Podles for the committee.

SENATOR PODLES: SB 565 was introduced with the intent of determining if New Hampshire's ability to attract out-of-state businesses could be increased by adjusting our incorporation statutes. The Judiciary Committee voted this bill as inexpedient to legislate 6 to 0 in order to give the recent update in these laws, which took effect in January of 1993, the opportunity to advance the same goal.

SUBSTITUTE MOTION

Senator Stawasz moved to **substitute ought to pass for inexpedient to legislate**.

SENATOR STAWASZ: As my colleagues are well aware, Delaware is the corporate capital of the nation and they advertise that as their particular niche in this country's economy. I respect the fact that we have changed some of our corporate laws in the last couple of years, and we don't yet have time to know whether or not they have worked; but with the New Hampshire primary a mere few weeks away, I would urge my colleagues to adopt the substitute motion of ought to pass so that we can look at our incorporation statutes as a study committee and determine if there are further things that could be done, specifically in response to our colonial neighbors to the south.

A division vote was requested.

Yeas: 5 - Nays: 16

The substitute motion of ought to pass fails.

Committee report of inexpedient to legislate is adopted.

Senator Stawasz in opposition to the motion of inexpedient to legislate on SB 565.

SB 612, an act relative to successful completion of the impaired driver intervention program. Judiciary Committee. Vote: 5-0. Ought to pass with amendment. Senator Wheeler for the committee.

4387L

Amendment to SB 612

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the impaired driver intervention program.

Amend the bill by replacing all after the enacting clause with the following:

1 Review Before the Commissioner for DWI Offenders; Final Evaluation. Amend RSA 263:65-a, II to read as follows:

II. For the purposes of this section, "successful completion" means meeting further counseling requirements, if any, arising out of the final evaluation given to the offender at the I.D.I.P. or the M.O.P. or its equivalent; ***provided however, that the offender shall have the right to a hearing before the commissioner or designee, in order to determine whether the further counseling requirements arising out of the final evaluation are warranted and appropriate, and whether the offender should be eligible for license restoration.*** [In no event shall such additional counseling requirements extend in duration beyond 6 months from the date of such final evaluation or for the period of the license, driving privilege revocation or suspension period, whichever is later, without first giving the offender the right to a hearing before the commissioner to determine whether he is eligible for license restoration.]

2 Review Before the Commissioner for DWI Offenders; Final Evaluation. Amend RSA 265:82-b, VI(a) to read as follows:

(a)(1) If the person has had a prior driving while intoxicated conviction under RSA 265:82 or RSA 265:82-a, or any equivalent offense in another state within the preceding 7 years, the person's license or privilege to drive shall not be restored until the offender has successfully completed a 7-day phase II program at the state operated multiple DWI offender intervention program or an equivalent 7-day phase II residential intervention program approved by the commissioner of the department of health and human services at the person's own expense.

(2) ***For the purposes of this section and RSA 263:65-a, II, "successful completion" means meeting further counseling requirements, if any, arising out of the final evaluation given to the offender at the I.D.I.P. or the M.O.P. or its equivalent; provided however, that the offender shall have the right to a hearing before the commissioner or designee in order to determine whether the further counseling requirements arising out of the final evaluation are warranted and appropriate, and whether the offender should be eligible for license restoration.***

AMENDED ANALYSIS

This bill allows a person enrolled in an impaired driver intervention program to seek a hearing before the commissioner of the department of safety to determine whether further counseling is needed prior to license restoration.

SENATOR WHEELER: SB 612, as amended, would allow a person who has completed an impaired driver intervention program to get a second opinion from other than the provider to see if he needs to continue or not in that program.

Amendment adopted.

Ordered to third reading.

SB 616, an act relative to a spouse's name change upon divorce. Judiciary Committee. Vote: 4-0. Ought to pass. Senator Gordon for the committee.

SENATOR GORDON: Under current law the probate court has jurisdiction to make changes of names TAPE CHANGE Superior court in conjunction with a divorce may, under current law, change the name of the wife to her original name. What this law does is change that law so that either the last name of the wife or the husband, the spouse, can be changed to the original name.

Adopted.

Ordered to third reading.

SB 520, an act establishing a study committee on the issue of granting municipalities the option of assessing property taxes on April 1 and October 1 of each year. Public Affairs Committee. Vote: 4-0. Ought to pass. Senator Stawasz for the committee.

SENATOR STAWASZ: SB 520 creates an eight-member legislative study committee to examine the option of allowing municipalities to assess property taxes on April 1 and October 1 of each year. The testimony indicated that new housing developments which occur after April 1 . . . oftentimes the foundations are in on the first of April and the town can assess that for a couple of thousand dollars, but forty-five days later the family moves into the house with four kids that go to school, and it is another April 1 and then another December before the town gets to have any revenue from providing services for that property. It is certainly an important study committee. I would support it, my colleagues. This could create financial hardships for the towns and the rest of the taxpayers in the town end up subsidizing new residents for sometimes close to 18 months. The Public Affairs Committee recommends the bill as ought to pass.

Adopted.

Ordered to third reading.

SB 615, an act relative to property left behind by tenants and relative to damage deposits for pets. Public Affairs Committee. Vote: 6-0. Ought to pass with amendment. Senator Stawasz for the committee.

4407L

Amendment to SB 615

Amend RSA 540-A:6, I as inserted by section 3 of the bill by replacing it with the following:

I. A landlord shall not demand or receive any security deposit in an amount or value in excess of one month's rent or \$100, whichever is greater. *If pets are permitted by the landlord, the landlord may require the tenant to post an additional damage deposit which shall be a sum of money not to exceed 1-1/2 times the amount of one month's rent paid by the tenant.* Upon receiving a deposit from a tenant, a landlord shall forthwith deliver to the tenant a signed receipt stating the amount of the deposit and specifying the place where the deposit or bond for the deposit pursuant to RSA 540-A:6, II(c) will be held, and shall notify the tenant that any conditions in the rental unit in need of repair or correction should be noted on the receipt or given to the landlord in writing within 5 days of occupancy.

SENATOR STAWASZ: This bill has a couple of parts. The first part of SB 615 eliminates a requirement that landlords maintain property of tenants who voluntarily vacated the property. The property left behind usually consists of broken furniture and other items which a tenant has obviously left behind. Contracting a storage unit for 45 days on the landlord's part, as is now required by law, is an unnecessary expense for the landlord. It also places a cap on pet damages for which I have a floor amendment that you will be receiving. The problem with both a \$500-a-month apartment is that right now, the landlord by law, is restricted to charging you \$500 for the rent and \$500 for the deposit. If you have a pet cat or dog or whatever, he is not allowed to charge you any additional damage. It might cost him \$750 to replace the rug. Inadvertently, the amendment to the bill contains . . . Senator Wheeler will volunteer to replace that rug at that quoted price. Sorry you didn't ask the square footage of the unit, Senator Wheeler? This inadvertently made it one and one half times the month's rent as the damage deposit, as opposed to the half month that was agreed to. If we take a \$500 apartment and we add half a month's rent, we are at \$750. If we go to one and one half month's rent for the pet, and the month's rent for the deposit, it would be \$1250 for a \$500 apartment. The intent with the Landlord's Association was to allow them the option of having an additional pet deposit of up to a half a month's rent. We feel that would increase the number of apartments available to people with pets.

SENATOR LARSEN: Senator Stawasz, as you may recall from the committee hearing, I had some trouble with requiring up to \$1250 for someone to enter an apartment with a pet for a deposit. My understanding is that there is a floor amendment to say that it is a half a month's rent and not one and half month's rent for a pet deposit?

SENATOR STAWASZ: The total, Senator Larsen, between the month's rent for the apartment and the additional, optional half month - the amendment says half month, not month and a half - the total was meant to be a month and a half.

SENATOR LARSEN: The maximum that it could be is a month-and-a-half rent as a security deposit and for a pet?

SENATOR STAWASZ: Correct.

SENATOR LARSEN: Yes, that is much better, thank you.

SENATOR STAWASZ: Glad to help.

SENATOR RUBENS: I agree with Senator Stawasz with respect to the change because he has volunteered to purchase my videotape and distribute it to all of the landlords. This helps you to train your pets not to do nasty things to the rug. This solves the problem, absolutely.

Amendment adopted.

Senator Stawasz offered a floor amendment.

4474L

Floor Amendment to SB 615

Amend RSA 540-A:6, I as inserted by section 3 of the bill by replacing it with the following:

I. A landlord shall not demand or receive any security deposit in an amount or value in excess of one month's rent or \$100, whichever is greater. *If pets are permitted by the landlord, the landlord may require the tenant to post an additional damage deposit which shall be a sum of money not to exceed 1/2 of the amount of one month's rent paid by the tenant.* Upon receiving a deposit from a tenant, a landlord shall forthwith deliver to the tenant a signed receipt stating the amount of the deposit and specifying the place where the deposit or bond for the deposit pursuant to RSA 540-A:6, II(c) will be held, and shall notify the tenant that any conditions in the rental unit in need of repair or correction should be noted on the receipt or given to the landlord in writing within 5 days of occupancy.

AMENDED ANALYSIS

This bill requires the safe keeping of a tenant's personal property by the landlord only if the tenant departed due to eviction.

This bill also allows landlords to charge a damage deposit of 1/2 of one month's rent to tenants with pets.

SENATOR STAWASZ: This amendment does, in fact, take care of the amendment that was Senator Larsen's concern, limiting the additional pet deposit to a half month.

Floor amendment adopted.

Ordered to third reading.

SB 547-FN-A, an act requiring the department of safety services, division of safety services, to publish the New Hampshire boaters guide and making an appropriation therefor. Transportation Committee. Vote: 5-0. Ought to pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, SB 547 requires the Division of Safety Services to publish an updated boaters' guide at least every four years. The Governor's Boating Advisory Committee anticipates the current supply of the guide in circulation should be depleted by the end of December 1996; therefore, there is a real need to publish an updated version. The information printed in the boaters' guide is considered to be the best and most cost effective way to keep New Hampshire's waterways safe. The vote was unanimous in the Transportation Committee that this bill be reported out as ought to pass. I might add, Mr. President, that there was some question about the fiscal note of \$40,000, but there was quite a bit of discussion by the proponents of the bill that

maybe that amount of money wasn't quite necessary. It might not be that much, so I would admonish the Finance Committee to take a good look at the cost.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 580, an act relative to liquor licensees. Ways and Means Committee. Vote: 5-0, 1 abstained. Ought to pass with amendment. Senator Fraser for the committee.

4439L

Amendment to SB 580

Amend the bill by replacing all after the enacting clause with the following:

1 Definition of Cocktail Lounge. Amend RSA 175:1, XXIII to read as follows:

XXIII. "Cocktail lounge" means a room operated for the purpose of serving liquor and beverages without the benefit of food. A cocktail lounge shall be equipped with a bar area for the display of stock and the preparation and refrigeration of product. [The cocktail lounge shall be an independent area which shall not serve as a primary access to other areas.]

2 Function Rooms. Amend RSA 178:19, II(a)(3) to read as follows:

(3) Private groups contracting for function rooms may also be served beverages and liquor without food[, provided the public dining room remains in operation].

3 Restrictions on Serving and Congregating of Patrons. Amend RSA 179:27 to read as follows:

179:27 Restrictions on Serving and Congregating of Patrons.

I. Liquor and beverages may be served to patrons in on-sale establishments while seated at tables or booths, at the bar, seated at drink rails or while standing at the bar or drink rails[, provided at least 2 feet of space is allowed for every person standing or seated at the bar or drink rails].

II. Patrons may carry their drinks from the bar to their tables or to the tables of others upon invitation].

[III.]**III.** No beverages or liquor shall be served or consumed in foyers, hallways, kitchens, rest rooms or other areas not approved for service by the commission.

4 Sizes of Beer Containers. Amend RSA 179:33, I, to read as follows:

I. Holders of beverage vendor or beverage vendor importer or beverage manufacturer licenses shall use bottles or cans, and cases or containers [in the usual and customary industry sizes] for the sale of beer in the state which shall be specifically authorized by the commission.

5 Use of Darts. Amend RSA 179:19, VIII to read as follows:

VIII. The use of darts shall be allowed in rooms[, other than full service restaurant dining rooms,] that have areas clearly [established] **defined** for this purpose. [The area where darts will be played shall be clearly defined by tangible barriers such as ropes or physical partitions, constructed in such a way as to prevent patrons or employees from crossing the path of the dart players.]

6 Effective Date. This act shall take effect 60 days after its passage.

SENATOR FRASER: Mr. President, what this bill allows is for more sociability in cocktail lounges and restaurants that serve liquor and that no longer do you have to be sitting down in order to be able to engage in

a dialogue with people in the lounge. You can stand up. The most important aspect of the bill was the fact that the enforcement arm of the liquor commission came in support of the change. So as long as there is two feet of space available people can stand in the bar rather than having to sit down. There is another part of the bill that eliminates that section of the law which requires that the size of containers of liquid beverages be "usual and customary." Because of the diversity now of different kinds of products that are being marketed that is being eliminated. The committee was unanimous in adopting the bill.

Amendment adopted.

Ordered to third reading.

Recess.

Out of recess.

SB 603-FN, an act relative to estate tax apportionments. Ways and Means Committee. Vote: 6-0. Ought to pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, under the current statute, only interest assessed on the estate tax and penalties may be apportioned. SB 603 will allow reasonable expenses incurred by the fiduciary and other interested parties in connection with the determination of the amount and apportionment of the tax shall be apportioned as provided in RSA 88-A:2 or as a probate court so directs. Additionally, for the most part, the intention of the testator of a will is that the legacies are to be enjoyed by those who receive these gifts. It is not the intention of the testator to have these gifts consumed by estate taxes. Under the revised 1964 Uniform Estate Apportionment Act as proposed in SB 603, the amount of uncollected taxes shall be paid first from the residuary estate and to the extent that the residue is not adequate to cover the tax, the uncollected amount shall be equitably apportioned among the other persons in the estate who are subject to the apportionment. SB 603 will lessen the burden of trying to recover delinquent taxes and do it in a more fair manner. SB 603 provides a more clear direction on outstanding issues involving the apportionment statute. The Ways and Means Committee was unanimous in adopting the bill, Mr. President, and we would urge the Senate to do the same.

Adopted.

Ordered to third reading.

SB 647-FN, an act permitting holders of certain licenses to sell premium beer. Ways and Means Committee. Vote: 6-0. Ought to pass with amendment. Senator Blaisdell for the committee.

4442L

Amendment to SB 647-FN

Amend the title of the bill by replacing it with the following

AN ACT

permitting holders of certain licenses to sell specialty beer.

Amend the bill by replacing sections 1-4 with the following:

1 Definition; Beer and Beverage. Amend RSA 175:1, VII and VIII to read as follows:

VII. "Beer" means beer, *specialty beer as defined by RSA 175:1, LXIV-a*, lager beer, ale, porter and similar fermented malt beverages.

VIII. "Beverage" means any beer, wine, similar fermented malt or vinous liquors and fruit juices and any other liquid intended for human consumption as a beverage having an alcoholic content of not less than 1/2 of one percent by volume and not more than 6 percent alcohol by volume at 60 degrees Fahrenheit *and specialty beer as defined in RSA 175:1, LXIV-a.*

2 Definition; Brew Pub. Amend RSA 175:1, XII-a to read as follows:

XII-a. "Brew pub" means a manufacturer of [alcoholic beverage] *beer or specialty beer*, not exceeding 2,500 barrels annually, which as a functional part of its business, maintains a full service restaurant serving the [beverage] *beer* it manufactures as well as other beverage and liquor as allowed by RSA 178:19, II(a)(1) and RSA 178:20, V(q).

3 Definition; Liquor. Amend RSA 175:1, XLII to read as follows:

XLII. "Liquor" means all distilled and rectified spirits, alcohol, wines, fermented and malt liquors and cider, of over 6 percent alcoholic content by volume at 60 degrees Fahrenheit. *Liquor shall not include specialty beer as defined in RSA 175:1, LXIV-a.*

4 New Paragraph; Definition; Specialty Beer. Amend RSA 175:1 by inserting after paragraph LXIV the following new paragraph:

LXIV-a. Specialty beer means any beer as defined in RSA 175:1, VII intended for human consumption as a beverage, having an alcohol content greater than 6 percent but not more than 12 percent by volume at 60 degrees Fahrenheit.

Amend the bill by replacing section 21 with the following:

21 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill permits holders of certain liquor licenses to sell specialty beer.

SENATOR BLAISDELL: Mr. President and members of the Senate, this bill was unanimously voted on in the Ways and Means Committee. The liquor commission supported it. The only thing the amendment does is change the word "premium" to "specialty" so that it will distinguish it from other beers. Maine, Massachusetts and Vermont sell this now. It would just allow our stores to pick up that revenue.

Amendment adopted.

Ordered to third reading.

Recess.

Senator Barnes in the Chair.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 4, relative to the time allowed for postsurgical recovery.

SENATE NONCONCURS WITH AMENDMENT REQUESTS COMMITTEE OF CONFERENCE

SB 4, relative to the time allowed for postsurgical recovery.

Senator Danaïs moved nonconcurrence.

The President, on the part of the Senate, has appointed as said members of the Committee of Conference:

SENATORS: Danaïs, Blaisdell, F. King.

Recess.

Out of recess.

SUSPENSION OF THE RULES

Senator Colantuono moved that as approved by the Rules Committee SCR 22, memorializing S. Christa McAuliffe, be introduced and put on second reading, dispensing with committee referral, notice of public hearing and a committee report in the calendar.

SENATOR DELAHUNTY: I rise in support of Senator Colantuono's resolution. Next Monday marks the tenth year of the Challenger disaster in which New Hampshire lost a brave and inspirational individual. The Senate wants to join with the House in offering this concurrent resolution honoring Christa McAuliffe and the other members of the Challenger crew.

Adopted by the necessary 2/3 vote.

First and Second Reading

RESOLUTION

SCR 22, memorializing S. Christa McAuliffe. (Sen. Delahunt, Dist 22; Sen. Barnes, Dist 17; Sen. J. King, Dist 18; Rep. Burns, Coos 5; Rep. A. Torr, Straff 12; Rep. Trombly, Merr 4)

SCR 22

STATE OF NEW HAMPSHIRE

In the year of Our Lord

One Thousand Nine Hundred and Ninety-Six

A RESOLUTION

memorializing S. Christa McAuliffe.

Whereas, Christa McAuliffe, neighbor, daughter, wife, mother, citizen and friend, was chosen from more than 11,000 American teachers to be the first teacher in space; and

Whereas, Christa McAuliffe accepted this challenge with enthusiasm, dedication, and pride and brought to it both her sense of wonder and of joy; and

Whereas, Christa McAuliffe intended always that the lessons of this journey be shared with us and many others; and

Whereas, on January 28, 1986, "Challenger" was lost with all those aboard: Francis Scobee, Michael Smith, Judith Resnick, Ellison Onizuka, Gregory Jarvis, Ronald McNair, and Christa McAuliffe, the first teacher in space and a citizen of the State of New Hampshire; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring:

That in New Hampshire's proud space tradition that began with Alan Shepard and has continued, we honor the crew of "Challenger" and take pride in the memory of Christa McAuliffe for whom space was not a profession, but a dream; and

That despite the grief we share with Americans and, indeed, with people everywhere, we remember the family of Christa McAuliffe who supported her, believed in her, and shared her willingly with us all; and

That the New Hampshire Senate and House of Representatives pays special tribute to the memory of Christa McAuliffe who was many things, but was, above all, a teacher; and

That we, still students all, pledge to learn what Christa McAuliffe taught so that we, in turn, can teach her lesson of grace, intelligence, and courage to the children of New Hampshire and everywhere.

Adopted.

Ordered to third reading.

RESOLUTION

Senator Colantuono moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, and that all titles be the same as adopted, and that they be passed at the present time.

Adopted.

ANNOUNCEMENTS

RESOLUTION

Senator Colantuono moved that the Senate be in recess until Thursday, February 1, 1996 at 10:00 a.m. for the sole purpose of introducing legislation, referring bills to committee, and scheduling hearings.

Adopted.

Third Reading and Final Passage

SB 520, an act establishing a study committee on the issue of granting municipalities the option of assessing property taxes on April 1 and October 1 of each year.

SB 571-LOCAL, an act relative to speech-language pathologists in the schools.

SB 580, an act relative to liquor licensees.

SB 583, an act requiring the Coos county commissioners to be elected on a rotating basis.

SB 592-FN-LOCAL, establishing a committee to study the distribution of school building aid.

SB 599, providing that school nurses shall be authorized to possess and administer certain drugs for disease prevention and emergency treatment, setting forth the duties of school nurses in the control and prevention of communicable disease, and requiring an education and monitoring component for regulating medication administration in a hospice house.

SB 603-FN, an act relative to estate tax apportionments.

SB 612, relative to the impaired driver intervention program.

SB 615, an act relative to property left behind by tenants and relative to damage deposits for pets.

SB 616, an act relative to a spouse's name change upon divorce.

SB 617-LOCAL, an act enabling appointment of sewer commissioners and the establishment of municipal boards of public works commissioners.

SB 647-FN, permitting holders of certain licenses to sell specialty beer.

SCR 22, memorializing S. Christa McAuliffe.

Recess.

Out of Recess.**HOUSE MESSAGES**

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate:

HB 417, relative to investments by town trustees.
and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Thomas Behrens
	Katherine Metzger
	Robert Fesh
	Linda Foster

**SENATE ACCEDES TO REQUEST FOR A
COMMITTEE OF CONFERENCE**

HB 417, relative to investments by town trustees.

Senator Fraser moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Fraser, F. King, Shaheen.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Resolution sent down from the Senate:

SCR 22, memorializing S. Christa McAuliffe.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 95-FN-A, relative to associate justices of the Manchester District Court and Nashua District Court.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 130, relative to the Uniform Trustees' Powers Act.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Nick Hart
	Richard Kennedy
	Janet Wall
	Janice Streeter

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 133-FN-A, establishing a pollution prevention program in the department of environmental services and making an appropriation therefor.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 133-FN-A, establishing a pollution prevention program in the department of environmental services and making an appropriation therefor.

Senator Russman moved concurrence.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled house and senate Bills:

HB 486, relative to lease agreements for state equipment.

SB 115, preventing strategic lawsuits against public participation.

Senator Currier moved adoption.

Adopted.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives is ready to meet with the honorable Senate in Joint Convention for the purpose of attending to the remarks of presidential candidate Pat Buchanan.

Recess for Joint Convention.

Out of recess.

SENATOR DELAHUNTY (In the Chair): Mr. Buchanan, I thought that if you would like to say a couple of words - two words - you may.

PAT BUCHANAN: I don't want to speak for the whole group, but I do want to say that when we said that we were going to change that name back to Washington's Birthday again, it will be the greatest in the United States and second greatest is going to be Washington-Pierce Day. Is that okay? Again, I spoke here in this very chamber, I guess, four years ago, right after I spoke to the legislature. It is very gracious of you to invite me here into this honored Chamber. I appreciate it. My wife and I appreciate it. Let me say again, without regard to partisanship, when we came up here four years ago, we walked the streets of New Hampshire. I was stunned at the depth of the depression of the soul and the depression of the spirit, as well as the economic depression. But everybody up here, Democrats, Independents, Republicans, as I walked along, gave me encouragement, a pat on the back and we really came to appreciate the traditions of New Hampshire, one of which is that magnificent primary that you have. You've got my word, sir, Democrats and Republicans, if I am elected, this will be the first primary in the nation, where the Republican Party will not be seating any delegates picked in primaries within one week of New Hampshire. It will be a party rule. We will keep that. Second is the tradition of small town democracy. We have gone to one place after another where there are ten people in there before I speak and they are talking about the local treasury of \$1,500 and exactly how it's going to be spent. This is an example, quite frankly, of what we have to get back to, or go forward to, if we are going to get this country right. The decisions on all of these issues that divide us have got to be made

by majority rule at the local level. It can't be imposed by bureaucrats at the federal level, or judges at the federal level or anyone at the federal level. We are a diverse people and we have to get back to the idea that we are a democratic republic and that is what I stand for, a constitutional republic. Thanks very much again for inviting us up here. It is always a marvelous occasion. Thank you.

SENATOR DELAHUNTY (In the Chair): Those are the longest two words that I have ever heard.

PAT BUCHANAN: You're lucky that it isn't Hubert Humphrey.

COMMITTEE REPORTS

SB 175-FN-L, an act allowing the city of Manchester to issue state-guaranteed bonds for a civic center and relative to the financing of Manchester airport. Finance Committee. Ought to pass with amendment. Senator Colantuono for the committee.

4564L

Amendment to SB 175-FN-LOCAL

Amend the bill by replacing section 2 with the following:

2 Authority to Establish a Civic Center in Manchester. In addition to any other authority previously granted to the city of Manchester, hereinafter referred to as the city, the city is hereby authorized, upon a 2/3 vote of the board of mayor and aldermen and after the voters of the city of Manchester approve by referendum the establishment and operation of a civic center, to establish a civic center to be located within the bounds of the city, at such place or places as shall be determined by the board of mayor and aldermen provided that, in recognition of the historic significance of the textile manufacturing in the millyard area of Manchester and the importance of new development coexisting with that historic industry, the city shall not establish or locate a civic center at any location which as of January 1, 1995, was used as a place of business for textile manufacturing and which establishment or construction, may cause (a) any such business to interrupt its knitting or dyeing manufacturing processes; (b) any unreasonable interference with the proper movement of goods or materials within such business, including transportation to or from such business; or (c) such business to relocate any aspect of its business beyond a single integrated facility where the manufacturing processes are then located. Any unreasonable interruption of the operation of such business caused by the establishment or construction of the civic center shall be subject to the payment of fair compensation to the owner and operator of such business for such interruption, provided that in no event shall such payments be less than the costs incurred, or the damages caused by, such interruption. Nothing in this act shall limit or impair the right of any party to institute actions against any responsible party for damages arising from the operation of a civic center.

Amend the bill by inserting after section 11 the following and renumbering the original section 12 to read as 13:

12 Competitive Bidding Required; Commission Members. No member of the civic center commission established in section 7 of this act shall enter into any contract, except by open competitive bidding, or take action by other means for the purchase of real estate or for the sale or purchase of goods, commodities, or other personal property or services of a value in excess of \$200 at any one sale to or from the civic center commission or civic center.

SENATOR COLANTUONO: This bill was sent from the floor to the Finance Committee. In the Finance Committee we took up several concerns that had been addressed relative to the measure. We made an amendment; it is in the calendar. It does two things. The first thing it does is require a referendum of the people of the city of Manchester before the project can go forward. The second thing it does is to prevent commission members from doing any business relative to the civic center, individually, except by open competitive bidding to prevent any conflicts of interest. So with those two changes, the Finance Committee recommends the measure as ought to pass as amended. Thank you.

SENATOR J. KING: I rise to make a few comments relative to CenterPlex. First of all, as you all know, and I won't go through it again, I am not a strong supporter under the conditions of what it is going to cost the city of Manchester. With part of the state involved and somebody else helping out, I would probably have a better feeling about it; but where the whole cost is going to be on the city of Manchester, I do not support CenterPlex as it is. I did stand up here a few weeks ago and say that if it was a referendum, that I would go along with the referendum and that is the only reason why I will be supporting this bill. That is because there is a referendum and it is giving the people a chance to look at it themselves. I do hope that somehow or another there is going to be a method of getting the message out to the people of Manchester of what the cost is going to be, the total cost, from day one until the thing is paid for, who is going to pay for it and any other complications, whether the state is involved or not involved. I will give you one example that I heard before, someone telling me that they thought that the state was going to pay for it because they kept reading about "state guaranteed" bonds. They told me not to worry about it. I told them that they were wrong. So there are two things that I do hope come out of this. First of all, that the message gets out just what the situation is and what the cost is and who is going to pay the cost. Again, as I said, I will go along with the referendum so that the people will have a chance and most likely it would have passed anyway.

SENATOR SHAHEEN: Senator Colantuono, did the Finance Committee look at the assumptions that the state treasurer drafted relative to what this project would do to the state's guarantee and central bond rating?

SENATOR COLANTUONO: I don't believe that issue was separately considered by the Finance Committee, but there is something that I would like to point out in connection with this whole project that I forgot to mention earlier. That is that there is language in the bill, and I am glad that it found its way in there. It is something that I have been advocating for a long time. It says that if the city defaults on the payment of a bond payment, and the state has to take it over, the state is allowed to reimburse itself through the rooms and meals money, which would otherwise go back to the city. So it is almost like a risk-free endeavor on the part of the state. So I don't believe that there is any danger to the state bond rating with that language in there because there really shouldn't be. The state has a simple way of recouping anything that it might have to lay out.

SENATOR SHAHEEN: I would disagree with you, Senator Colantuono. What we heard in testimony at the hearing was that the recoupment of money from the rooms and meals would come from the projections from, assuming that all of the targets are met, what the additional funds in

rooms and meals are going to be. In fact, that was a question that I raised at the hearing, as to whether the city would be willing to reimburse the state from its share of revenue sharing and there was some discussion about it, but that never made its way into the bill. I have to say again, to my fellow senators, that as much as I appreciate the merits of this project and the improvements that have been made to the bill as the result of the Finance Committee amendment, I am going to vote against the bill because I think it puts in jeopardy the state's bond rating. I don't know how many people read the Union Leader today, but I did. You will note the front page article that says that the "state pays, \$334,447 on Business Express' bond debt that it has defaulted on." I think there is some question about whether the state is, in fact, going to wind up paying the \$10 million in the bond debt for that Business Express debt. Now that is part of what you heard Senator Danaïs say that was going to get written off the state's books which would allow the bond rating to not be in jeopardy. I think if you look at Georgie Thomas' numbers, it is very clear that in the worst case scenario, by the year 1999 we are going to be up over 10 percent if there is a problem and that doesn't take into consideration what just happened to Business Express. In the best case scenario, we are going to get there in the year 1999 as well, over that 10 percent place where the bond rating companies say that the state's bond rating is in jeopardy. I am going to vote against this project. I think it's not the way TAPE CHANGE.

SENATOR COHEN: Senator Shaheen, even if the state's bond rating were not impacted by this, what impact would this have on the state's ability to bond future projects for the next few years?

SENATOR SHAHEEN: Well, as we heard the last time we discussed this, this would use up all state guarantees that would be available from now until the year 2002.

SENATOR DANAÏS: Fellow Senators, we have worked on this issue for many months. There have been many, many concerns that the Senate has brought about and we have tried to address those concerns. We have also asked the state treasurer, Georgie Thomas, to address our committee regarding the bonding in the state of New Hampshire. At no time did the treasurer of the state of New Hampshire say that with the approval of this bonding that it would jeopardize the bonding of the state of New Hampshire. Her figures are based on very conservative estimates of growth in the state of New Hampshire. I am sure that with the reputation that Georgie Thomas has, if she felt, in any manner, that the reputation and the bond rating of the state of New Hampshire would have been jeopardized, she would have said that in the public committee hearing and she did not say that. Regarding the issue in this morning's paper, we are very well aware that the state of New Hampshire has to pay in excess of \$300,000. But with the safeguard that this senate brought forward as an amendment to SB 175 in the last couple of weeks, specifically, Senator Rubens's amendment for the guarantee of no operating losses, it protects the state of New Hampshire in another manner so that this will never happen to this particular project. As Senator Colantuono mentioned approximately five minutes ago, there was language in this bill, that in the event that does happen, of all circumstances, the state does have recourse to come back to the city of Manchester and recoup, with interest, any monies that the city of Manchester owes the state. We have tried through negotiations and through questions that this senate and other parties have had through public testimonies and public forums

over the last seven months to address all of the issues that you were concerned about. I think that we have done that and I think that this bill, as presented this morning, is a very, very good bill not only for the state of New Hampshire, but also for the city of Manchester.

SENATOR SHAHEEN: Senator Danais, I would agree with you that Georgie Thomas, in fact, said that it wasn't her position to take a position on this one way or the other, but would you agree with me that what she said is that when the debt-to-revenue ratio gets 10 percent or above that the bond rating companies look at that when they evaluate the state's bond rating?

SENATOR DANAIS: What Georgie Thomas said is that when it gets above 10 percent, red flags go up so that people start paying attention. She did not say that it would affect the rating, nor did she say that it will affect the rating. It was just that people start to pay attention about the future consequences of what would happen.

SENATOR PIGNATELLI: Senator Danais, my understanding was that there was another group that was going to try to obtain financing for a Quadraplex in Raymond and that the drop-dead date was yesterday. Can you tell me any information about funding for that group?

SENATOR DANAIS: I will defer to Senator Barnes on that, but my knowledge is that there were no monies that were presented as of yesterday.

SENATOR PIGNATELLI: Senator Danais, when I was reading the amendment this morning, it mentioned something about not interrupting business. Can you explain that and have we ever done that for any other company when we were building?

SENATOR DANAIS: The design of the CenterPlex is to merge it with a mill building. It is a 400,000 square foot mill building of which there is an existing, operating textile mill, or textile industry going in. The textile owner is in full support of the CenterPlex concept. What they are concerned about is that through the construction of a large complex that their business would be interrupted. We have given them assurances, and we even went further to put the assurances in the bill, that their business will not be interrupted through the construction of the CenterPlex.

SENATOR PIGNATELLI: And if the business is interrupted as a result of the construction of the CenterPlex, what then?

SENATOR DANAIS: The only problem he had was traffic flow. It wasn't with the design of the building that is going to abut his building. All it had to do with was traffic flow. All we are trying to do is to accommodate his concerns and we have done that.

SENATOR PIGNATELLI: So if we do interrupt his business as a result of the construction, what are we responsible for?

SENATOR DANAIS: I don't know how to answer that question, because we are not interrupting his business, nor are we going to infringe upon his real estate or his place of business. All that he was concerned about are the public rights of way, that we will not infringe upon that and give him access to his business. I mean, if we do that, we will have to make way or make available some other way to get access to his business. That is what the whole point of that section of the bill was, to make available

access to his place of employment and we have accommodated that and we feel that we can do that. All of the engineers and all of the people who are designing and building CenterPlex feel they can do that. We just wanted to give him assurances that will happen.

SENATOR PODLES: Senator Danaïs, could you tell us where that 30 percent of the money is coming from? I have been hearing all kinds of stories about it. Would you please answer that question for me?

SENATOR DANAÏS: We have designed a plan that is a formula of 70 percent public funds for the bonding and 30 percent private funds. The private funds will come from a series of different ways. Part of those ways are through the investment of private funds for the naming rights of the building. Other parts will come from pouring rights. In this particular business, civic centers, people in the soft drink companies, just to name one, pay a premium to have the exclusive rights to pour. There are all kinds of rights like that. All of these different rights have been the recommendations of the consultants that we have hired. We told them that we needed to gather private investments and that is where all of this money will be coming from. Another one is through the management company. They will pay . . . what has been recommended is that a dollar per ticket be included in the 30 percent. That is going to be part of it. The other part of it is going to be what they call PSA's which is a personal seating arrangement right. What we will do is sell personal seating rights for ten years and you will have the exclusive use of that seat. That is not a new concept and I will give you an example of how that works. The Carolina Panthers, which is an expansion team for the National Football League, before the stadium was built, had to raise some money. What they did is they went out and got these personal seating licenses, which means that for \$10,000 you bought the exclusive rights to that seat and any game that you wanted to attend, you would have the right to pay the market price of that ticket to go to that game. They raised \$161 million before the stadium was built for these personal seating licenses. We are going to do the same thing and that is the newest concept nationally to raise money. That is going to be one of our biggest areas of raising money.

SENATOR PODLES: Senator Danaïs, isn't it true that you don't have the \$30 million, that you are just projecting that? You are hoping for that?

SENATOR DANAÏS: That is correct.

SENATOR PODLES: But the \$30 million is not there?

SENATOR DANAÏS: That is correct. We will not have it until all of these ingredients are in place. We will not go forward unless we have the 30 percent.

SENATOR PODLES: Mr. President and senators, I have voted against the funding mechanism before and I am still against this funding mechanism. It is too much of a risk and I am concerned from the state's point of view. I would like to vote, and I will be voting for this bill because I want the people to have a chance to go to vote in the referendum and that's the only reason why I am voting for this bill. I don't want them to be denied a vote because my vote would lose this kind of thing. They are the ones who are going to be paying for it. The taxpayers of Manchester are the ones who are going to be paying for this and I am really concerned.

SENATOR BARNES: I was rising to answer a question from Senator Pignatelli. Perhaps I could hear the question again.

SENATOR PIGNATELLI: It concerns the purported Quadraplex in your district. I understood from the Economic Development Committee that yesterday, January 31, was the drop-dead date for the other group to obtain financing. My understanding was that if the other group obtained financing and went ahead and built the Quadraplex that we would not be building a CenterPlex in Manchester. So I am wondering if you can tell me what the status is on the funding of the Quadraplex?

SENATOR BARNES: I will let you know, Senator, what I know. A couple of weeks ago in a conversation debated here on the floor, Senator Johnson and I had a conversation that the Manchester group would disappear if Raymond became a reality. Senator Johnson and I met with the head project manager of the Quadraplex in Raymond that morning, and from him came the words that he would have the financing all put together and the people out there would receive about \$3.5 million of real money and it would be spent by January 31. So to get right to the bottom line of your question, no, real money, the \$3.5 million, has not been spent; however, in conversations with the people from the Quadraplex in Raymond, they need about two more weeks to get the documents and the rest of the legal material together. They know that today it is going to be voted here on the floor. I am personally going to vote for this proposal because I think the state of New Hampshire needs something like this or the project that is being talked about in Raymond. So my feeling is that if they had their two more weeks, there is plenty of time before it gets to the House and there will be committee hearings etc., so these folks have their two more weeks or three more weeks in order to pay that \$3.5 million real dollars out and at that time when they do, I am sure that will be knowledge, and I am sure the House will have that information in their hands, and yes, real money has happened and the House will have to take whatever measures they take when they decide to vote on it.

SENATOR WHEELER: Senator Danaïs, of the 30 percent of private share money, how much of that is cold hard cash on the table?

SENATOR DANAIS: It is all cold hard cash.

SENATOR WHEELER: You said that it was from seating tickets that would be sold and rights from soft drinks, but how much of it is not coming from the stadium itself? How much cash is going to be brought into the deal and put onto the table?

SENATOR DANAIS: I don't know the exact amount because what we are going to do is that our consultants are going to go out and raise the money. It could be more than 30 percent, quite frankly. It could be up to 40 percent. But we have projected that 30 percent is a reasonable amount of money to raise over the umbrella amount that we need. So there are many, many diverse wells, as well as personal investments, as well as a couple of other things. So I don't have a specific amount, but it is all hard cash. One hundred percent or thirty percent, it's hard cash.

SENATOR J. KING: This is a follow up on Senator Wheeler's question. When you talk about hard cash, Senator Danaïs, is this money available now or is this once the building gets built that you are going to get \$450,000 a year for rent and you are going to get so much for the seats that you have, but you have to have the building before we have something to sell?

SENATOR DANAIS: We have to have approvals. It is like the referendum. We have to have approvals to go forward. In order to put a group together to raise the 30 percent - it is like the Carolina Panthers. They got their franchise. They got all of their approvals. Then they went out and negotiated for the bond; they negotiated for the construction; they negotiated for everything. During that time, they went out to the general public and raised \$161 million for their PSL. That is the same exact thing that we are going to do. There is going to be an agenda. It is going to be step by step. We get the approval and go to the public and say okay, we now have our approvals and we have to raise 30 percent; let's go forward and put a campaign together and raise some money. That is exactly what we are going to do.

SENATOR J. KING: But there is no private money invested in the thing as such?

SENATOR DANAIS: We are not ready. We don't have our approvals.

SENATOR J. KING: But I mean after. Are you going to go out and look for private funds, people who are interested in investing into the situation?

SENATOR DANAIS: Yes.

SENATOR J. KING: And there isn't any available at the present time?

SENATOR DANAIS: No, there are none.

SENATOR J. KING: There is not much interest in it then?

SENATOR DANAIS: No, we don't have our approvals yet.

Senator Currier moved the question.

Adopted.

Amendment adopted.

Ordered to third reading.

Senator Shaheen in opposition to SB 175.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, February 1, 1996, at 10:00 a.m.

Adopted.

ANNOUNCEMENTS

LATE SESSION

Third Reading and Final Passage

SB 175-FN-L, an act allowing the city of Manchester to issue state-guaranteed bonds for a civic center and relative to the financing of Manchester airport.

Senator J. King moved that the business of the day being completed, the Senate now adjourn until Thursday, February 1, 1996 at 10:00 a.m.

Adopted.

Adjournment.

February 1, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Thomas Peetz, the Senate Guest Chaplain.

I exhort therefore, but first of all, supplications, prayers, intercessions and giving of thanks be made for all men, for kings, for all that are in authority, that we made lead a quiet and peaceable life in all Godliness and honesty, for this is good and acceptable in the sight of God, our Savior, who will have all men to be saved, and come unto the knowledge of the truth. There is one God and one Savior, the mediator between God and man, and the man, Christ Jesus. Father, we address this body this morning, on their behalf. Father, we thank you for this opportunity. But we thank you for the men and women that have given their lives and their time to this particular devotion in their lives. We thank you for the wisdom that you have given them to do what they have to do. You said if any man lacks wisdom, let him ask of God who gives to all men, liberty. Father, we ask you for wisdom and understanding for these men and women that are in this position, that they would judge righteously, honestly, and that they would do the will of the Father and we thank you, Father, for it. We remind the powers of darkness, in the name of Jesus, we bind every power of darkness that would try to come against this body to destroy, kill and steal, to divert. We take authority over that in the name of Jesus Christ of Nazareth, that these men and women can do the work of the Father, do the work of the will of God, in Jesus' name. Amen

Senator Rubens led the Pledge of Allegiance.

INTRODUCTION OF GUESTS COMMITTEE REPORTS

SB 658, an act requiring the division of personnel, coordinator of training to cooperate with the university system regarding the training of state employees. Education Committee. Vote: 7-0. Ought to pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, SB 658 says that the coordinator of the state employee training in the division of personnel "shall promote awareness in all state agencies of the coordinator position and its duties relative to agency personnel training" so that the state employees will be better able to take advantage of the training offered. "The coordinator shall also cooperate and coordinate with the university system and the postsecondary technical colleges regarding the availability, creativity, providers, costs, and other issues associated with the development of training for state employees." This will insure that the resources that the university system can offer for training employees are best utilized.

Adopted.

Ordered to third reading.

SB 500, an act relative to the purchase of paper products by the state. Environment Committee. Vote: 4-0. Ought to pass. Senator Russman for the committee.

SENATOR RUSSMAN: This is a bill that was asked for by the Division of Plant and Property Management which will basically bring us into

compliance with what the national standards are, and also, hopefully, act as an economic development tool for the state of New Hampshire in terms of encouraging the recycling market here in New Hampshire.

Adopted.

Ordered to third reading.

SB 526, an act relative to the membership of the commission on the status of the family. Executive Departments and Administration Committee. Vote: 3-0. Ought to pass with amendment. Senator Colantuono for the committee.

4511L

Amendment to SB 526

Amend the bill by replacing section 2 with the following:

2 Application.

I. The governor shall make the appointments under section 1 of this act no later than January 1, 1997, and such appointees shall assume their duties upon appointment. Present members of the commission shall serve until they are replaced by the governor's appointees.

II. Notwithstanding RSA 19-E:1, initial appointments only shall be for the following terms as designated by the governor:

(a) Five members for 2 years.

(b) Five members for 3 years.

(c) Five members for 4 years.

SENATOR COLANTUONO: This bill is designed to alter the membership of the commission. The original legislation that I sponsored to establish the commission had the governor making fifteen appointments and was modeled after the commission on the status of women, which is working very well. The House, at that time, changed the membership to make ex officio members for various groups and agencies and also included legislators. The fact of the matter is that there just hasn't been proper attendance from these people and it was felt that by getting citizens involved to have this as their sole extracurricular function, we felt that the committee would work much better in meeting its statutory obligations. Thank you.

Amendment adopted.

Senator J. King offered a floor amendment.

4618L

Floor Amendment to SB 526

Amend the title of the bill by replacing it with the following:

AN ACT

revising the commission on the status of the family.

Amend the introductory paragraph of RSA 19-E:1 as inserted by section 1 of the bill by replacing it with the following:

19-E:1 The Governor's Commission on the Status of the Family Established; Membership.

There is hereby created a governor's commission on the status of the family, hereinafter called the commission, consisting of 15 members **appointed by the governor**. All members of the commission shall serve terms of 4 years each. [Legislative members of the commission may receive legislative mileage while engaged in their work on the commission.] The member first appointed by the governor shall call the first meeting. The members shall elect officers at the first meeting. [The commission shall consist of the following members:

AMENDED ANALYSIS

This bill renames the commission on the status of the family as the governor's commission on the status of the family, and provides that the 15 members shall be appointed by the governor, and deletes the particular membership requirements.

SENATOR J. KING: Mr. President, this is a very simple amendment. The regular bill said it was the state status of the family. This amendment changes it to the governor's commission. Whereas the governor has the appointments for the fifteen members of the committee, we figured that it would be a governor's commission and not the state or the state legislature's. Even our good President, Joe Delahunty, won't have the opportunity to place any names in nomination. So therefore, I would suggest that we go along with the amendment and make it what it really is.

Amendment adopted.

Ordered to third reading.

SB 642-FN-A, an act establishing the office of small business advocate and making an appropriation therefor. Executive Departments and Administration Committee. Vote: 4-0. Inexpedient to legislate. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill was recommended to be inexpedient because it was an expansion of government at a time when we're trying to downsize government. It also duplicates the work already being done by the Office of the Consumer Advocate. There was concern about putting more costs onto the utilities at this time when we are trying to lower utility costs. There was also concern about the fact that this office would be established in the attorney general's office when the attorney general, also at the same time, has to represent the public utility commission before the courts. There was concern about a conflict of interest.

Committee report of inexpedient to legislate is adopted.

SB 654-FN, an act relative to fees for certain hunting and fishing licenses. Fish and Game/Recreation Committee. Vote: 4-0. Ought to pass with amendment. Senator Cohen for the committee.

4580L

Amendment to SB 654-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Disabled Persons; Administrative Fee. Amend RSA 207:7-a to read as follows:

207:7-a Disabled Persons.

I. RSA 207:7 shall not apply to a disabled person who is suffering from paraplegia or who is suffering from the loss of, or the loss of the use of, both lower extremities and who has obtained a current license to hunt; provided, however, that such person must first obtain from the executive director a special permit entitling said person to hunt while using a motor vehicle, not to include boats with motor attached or aircraft. For purposes of this section, "motor vehicle" shall include off highway recreational vehicles and all terrain vehicles as defined in RSA 215-A:1. No loaded firearm, shotgun, or rifle shall be carried or transported with a cartridge in the chamber, magazine, or clip attached to [said] *the* firearm, shotgun, or rifle, while [said] *the* vehicle is in motion. The executive director may issue such a permit upon application in person or upon documen-

tary proof of such disability by a licensed hunter. Such permit shall be carried upon the person of the permittee while hunting and shall be produced for inspection upon the demand of any law enforcement officer. [Such permit may be revoked for such period as the executive director may deem proper upon satisfactory proof that such permittee is an improper person to have such a permit or upon conviction in any court of a violation of this title. Such permit shall expire on December 31 of each year. The executive director shall charge a fee of \$.50 for such permit or the renewal thereof. Each permittee shall be given one deer seal which shall be attached to the deer immediately upon killing. Should the permittee need assistance in the case of a wounded deer, he shall give the seal to the assistant to attach to the deer before moving it to the vehicle for the permittee to tag.] **A \$10 administrative fee shall be charged once upon application to the executive director for such permit.**

II. The permit shall be perpetual. The executive director shall retain the records for such permits for a period not less than 7 years. Loss or destruction of the permit after 7 years shall obligate the permittee to re-establish eligibility.

2 Crossbows; Persons With Disabilities. Amend RSA 207:10-c to read as follows:

207:10-c Crossbows Permitted for Certain Persons with a Disability.

I. Notwithstanding the provisions of RSA 207:10 or RSA 208:6, a special permit may be issued to a person so physically impaired [that he has lost one or both hands or totally and permanently lost the use of one or both hands and] **by the permanent loss of the shoulder, arm, elbow, forearm, wrist or hand or the permanent loss of functions of same, such that the person** cannot operate a conventional longbow or compound bow **safely**. Such permit shall allow that person to take one deer during bow and arrow hunting season, one bear during the specified season, **wild turkey**, and carp from Mascoma lake pursuant to RSA 211:2, **provided that the necessary licenses under RSA 208, RSA 209, and RSA 214 have been acquired each year.** The permit applicant [shall] **may be required to** appear before the executive director [or], **the director's designee or designated medical consultant or consultants to substantiate the presence of the disability** and demonstrate [his] **the ability to safely** use a crossbow. **The applicant shall be responsible for submitting medical documentation as required by the executive director. The executive director may require a second medical opinion from a medical consultant or physician designated by the executive director to verify the disability. Any costs associated with obtaining the medical documentation, re-evaluation of the information or a second medical opinion, upon recommendation of the medical consultant or consultants, are the responsibility of the applicant. The executive director shall determine the eligibility of the applicant, and the executive director's decision shall be final.**

II. [Crossbows shall be unstrung or disassembled while being transported.] **The permit shall be perpetual. The executive director shall retain the records for such permits for a period not less than 7 years. Loss or destruction of the permit after 7 years shall obligate the permittee to re-establish eligibility.**

III. The medical documentation requested under paragraph I shall consist of:

(a) Signed application and statement of disability by the applicant; and

(b) Signed medical section to be completed by the applicant's physician providing applicant's medical history, physical examination findings and attesting to the disability and its permanence.

[III.] IV. The fee for taking deer shall be the same as provided in RSA 208:5, and the fee for taking bear, *wild turkey*, or carp shall be the appropriate fee established under RSA 214:9.

V. A \$10 administrative fee shall be charged once upon application to the executive director for such special permit.

VI. Any person possessing a valid crossbow permit under this section on January 1, 1997, may apply on or before January 1, 1998, and shall be issued upon payment of a \$10 administrative fee a permanent crossbow permit.

3 Disabled Veterans; Administrative Fee. Amend RSA 214:13 to read as follows:

214:13 Veterans, Totally and Permanently Disabled. If the applicant for a fishing and hunting license is a resident of the state, has received a discharge other than dishonorable from service in any war or police action in which the United States has been engaged and is totally and permanently disabled from such service-connected disability, the executive director shall issue a special veteran's license to said applicant[, free of charge]. Said special license shall be perpetual. ***The executive director shall retain the records for such licenses for a period not less than 7 years. Loss or destruction of the license after 7 years shall obligate the licensee to a \$10 administrative fee shall be charged once upon application to the executive director for such special license.***

4 Licenses for Certain Persons. Amend RSA 214:13-c to read as follows:

214:13-c [Complimentary] Licenses for Certain Persons. The executive director shall issue upon application [complimentary] resident hunting and fishing licenses to a person who is both a resident of this state and is either suffering from paraplegia or is suffering from the permanent loss of, or the permanent loss of the use of, both lower extremities. The executive director shall determine the form of such [complimentary] licenses. All such licenses shall be consecutively numbered. The fish and game commission shall periodically review the total issue of such [complimentary] licenses and, on or before January 15 each year, submit a complete list to the chairperson of the house wildlife and marine resources committee and the chairperson of the senate fish and game/recreation committee, containing the names and legal residences of all persons to whom such [complimentary] licenses have been issued. A license issued under this section shall be effective for the lifetime of the applicant unless sooner suspended or revoked by the executive director. ***The executive director shall retain the records for such licenses for a period not less than 7 years. Loss or destruction of the license after 7 years shall obligate the licensee to re-establish eligibility. A \$10 administrative fee shall be charged once upon application to the executive director for such license.***

5 Effective Date. This act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill modifies the licensing procedure and fees for disabled persons applying for a license to hunt in a motor vehicle or with a crossbow, and for disabled veterans seeking a hunting or fishing license.

This bill also adds an administrative fee for hunting and fishing licenses for persons suffering from paraplegia. Existing law allows for complimentary licenses for such persons.

SENATOR COHEN: SB 654 changes a current situation where right now the only people who can use crossbows, are people who have completely lost their hands or have lost the use of their hands. This would expand it a bit to those people who have lost use of their shoulders and arms. So it just expands it just a little bit here and it allows special licenses for these people.

Amendment adopted.

Ordered to third reading.

SB 523, an act relative to insurance holding companies. Insurance Committee. Vote: 6-0. Ought to pass with amendment. Senator Danaïs for the committee.

4451L

Amendment to SB 523

Amend the bill by replacing all after the enacting clause with the following:

1 Acquisition Options. Amend the introductory paragraph of RSA 401-B:2, I to read as follows:

I. Authorization. Any domestic insurer, either by itself or in cooperation with one or more persons, [subject to the limitations set forth herein or elsewhere in this title,] may organize or acquire one or more subsidiaries [provided that no organization or acquisition of a subsidiary engaged in any of the following kinds of business, or of a majority of the voting securities of any person not engaged in any of the following kinds of business shall be made pursuant to this chapter until either 30 days after the commissioner has received notice of intention of such proposed organization or acquisition and has not within such period disapproved such organization or acquisition; or the commissioner shall have approved such organization or acquisition within such 30-day period, provided that within 15 days after acquisition of control, a domestic insurer shall give notice of such acquisition to the commissioner. Control as used herein shall include, but not be limited to voting control by voting less than a majority of the outstanding voting stock of such subsidiary]. The kinds of businesses that may be organized or acquired [subject to the approval of the commissioner] are as follows:

2 Addition Investment Authority. Amend the introductory paragraph of RSA 401-B:2, II and RSA 401-B:2, II(a) to read as follows:

II. ADDITIONAL INVESTMENT AUTHORITY. In addition to investments in common stock, preferred stock, debt obligations and other securities permitted under [all other sections of this section] **this title**, a domestic insurer may also:

(a) Invest, in common stock, preferred stock, debt obligations, and other securities of one or more [noninsurance] subsidiaries, amounts which do not exceed the lesser of 10 percent of such insurer's assets or 50 percent of such insurer's surplus as regards policyholders, provided that after such investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments, investments in domestic or foreign insurance subsidiaries shall be excluded, and there shall be included:

(1) Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and

(2) All amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus of a subsidiary subsequent to its acquisition or formation.

3 Reference Change. Amend RSA 401-B:2, V to read as follows:

V. Qualification of Investment; When Determined. Whether any investment pursuant to paragraph II [or III] meets the applicable requirements thereof is to be determined before such investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the current value of all previous investments in equity securities, net of any return of capital invested, not including dividends.

4 Repeal. RSA 401-B:2, III, relative to investments in insurance corporations, is repealed.

5 Effective Date. This act shall take effect January 1, 1997.

SENATOR DANAIS: SB 523 addresses the ability to invest by insurance companies in the state of New Hampshire. Currently, insurers are limited in the amount of assets they can invest in other insurance subsidiaries in New Hampshire. The New Hampshire Department of Insurance feels that this practice is no longer necessary. The department had adequate regulatory powers over both holding companies and subsidiaries, so this investment restriction is no longer necessary. This removal of the restriction could also bring investment into the state as insurance companies that were limited in their investments would now be able to invest more. The amendment addresses technical changes written by the New Hampshire Insurance Department in conjunction with domestic insurers. To add to that small phrase, basically what this bill does . . . what we are trying to do is to promote industry relocating to the state of New Hampshire. What this bill does is basically repeal laws. What, in essence, it says is that the insurance companies have to abide by certain guidelines that were in the past, very, very restrictive. This opens it up and lets the insurance companies, basically, give them more freedom and hopefully, this will be an economic boom for the state of New Hampshire. I strongly endorse this bill. Thank you.

Amendment adopted.

Ordered to third reading.

SB 538, an act limiting the amount of attorneys' compensation in tort cases. Insurance Committee. Vote: 5-0. Inexpedient to legislate. Senator Danais for the committee.

SENATOR DANAIS: At the public hearing for this bill, which would have limited the amount of compensation the plaintiff's attorney may recover in a tort case, the prime sponsor asked that the committee recommend the bill as inexpedient to legislate, which the committee did.

Committee report of inexpedient to legislate is adopted.

Recess.

Senator J. King in the Chair.

SB 553, an act relative to purchasing manufactured housing in manufactured housing parks. Public Affairs Committee. Vote: 3-0. Inexpedient to legislate. Senator Rubens for the committee.

SENATOR RUBENS: The suit that brought this bill about has been dropped and no other appeals are necessary; therefore, the committee found it inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 556, an act relative to services provided by manufactured housing park owners. Public Affairs Committee. Vote: 3-0. Inexpedient to legislate, Senator Rubens for the committee.

SENATOR RUBENS: The prime sponsor of SB 556 has indicated that he no longer wishes the bill to be brought before this chamber and it's therefore withdrawn. The committee therefore recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 613, an act proclaiming December 7 of each year as National Pearl Harbor Remembrance Day. Public Affairs Committee. Vote: 3-0. Ought to pass. Senator Barnes for the committee.

SENATOR BARNES: SB 613 creates a day of remembrance for all those who lost their lives during the attack on Pearl Harbor. This bill is designed not to become a state holiday, but to serve as a reminder to all generations what transpired on that day and subsequent days. Designating December 7 as National Pearl Harbor Day should urge us all to stop and remember how the entire country rallied to work together for one common cause following the attack on our navy base in Hawaii. This bill also encourages interested parties to fly the United States flag at half staff in honor of the individuals who died as the result of the attack on Pearl Harbor. The Public Affairs Committee recommended this bill as ought to pass.

Adopted.

Ordered to third reading.

Recess.

Out of recess.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourned until Thursday, February 8, 1996 at 10:00 a.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 500, an act relative to the purchase of paper products by the state.

SB 523, an act relative to insurance holding companies.

SB 526, revising the commission on the status of the family.

SB 613, an act proclaiming December 7 of each year as National Pearl Harbor Remembrance Day.

SB 654-FN, an act relative to fees for certain hunting and fishing licenses.

SB 658, an act requiring the division of personnel, coordinator of training to cooperate with the university system regarding the training of state employees.

Senator Larsen moved that the business of the day being completed, the Senate now adjourn until Thursday, February 8, 1996, at 10:00 a.m.

Adopted.

Adjournment.

February 8, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

In most cases, to know the difference between right and wrong is fairly simple. It is the courageous act of doing of right over wrong, despite partisanship and despite personality. It is the doing of it, consistently and over the long haul, that distinguishes character and integrity from mere image and popularity, in politics and in life. So fight that good fight with all your might, and thanks for doing it. We are in your debt.

Great God of integrity, help each one here to know when being popular and being right are not the same thing and give them the boldness they will need to always opt for the latter over the former, for you demand and we deserve no less.

Amen

Senator Lovejoy led the Pledge of Allegiance.

Senator Rodeschin is excused for the day.

ANNOUNCEMENTS INTRODUCTION OF GUESTS HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 151-FN, establishing a special license plate program, including related fees.

HB 306, establishing a family resource council to address the efficient delivery of services to children and families.

HB 378-FN-L, relative to school employee background investigations.

HB 530-FN, transferring the functions and duties of the director of state ski operations.

HB 533-FN, relative to retirement benefits for the state treasurer.

HB 547-FN-L, establishing a deferred compensation plan for volunteer firefighters.

HB 580-FN, allowing the formation of and regulating limited liability partnerships and providing for registration fees.

HB 647-FN-A, establishing a municipal bridge repair and a department of transportation "on the shelf" program and continually appropriating the municipal bridge repair and the department of transportation "on the shelf" account and relative to the payment of certain bonds.

HB 1172, relative to bridge regulations.

HB 1197-L, reclassifying certain roads in the towns of Boscawen and Hampstead.

HB 1227-FN, transferring the town of Litchfield from the Nashua District Court to the Merrimack District Court.

HB 1253-FN-A, relative to senior "meals on wheels" and senior transportation and making an appropriation therefor.

HB 1297, relative to the form of the citizenship affidavit.

HB 1366, requiring the commissioner of the department of corrections to prepare a quarterly report on department of corrections population management.

HB 1505-A, expanding the authority of the commissioner of the department of transportation to use a certain appropriation to purchase airports.

HB 1567-FN-A, making a supplemental appropriation to fund the position of state curator and relative to supplemental appropriations for youth development services.

HB 1586-FN, relative to minimum bonding requirements for postsecondary institutions, and the state share of default costs on certain federal student loans, and nursing service required for cancellation of nursing scholarship loan obligations.

HB 1592-FN, naming a certain segment of highway in Merrimack.

HB 1119, allowing an option for reconsideration of votes at village district meetings and relative to the powers of the town of Conway concerning governance of its fire precincts.

HB 1120, allowing towns to adopt a warrant article to accept personal property donated to libraries.

HB 1124, relative to the Merrimack county treasurer.

HB 1125, relative to roads to private recreational areas.

HB 1139-L, relative to the powers of the town of Sunapee concerning governance of the Sunapee water and sewer system.

HB 1140-FN, repealing the health insurance coverage survey.

HB 1156, relative to aircraft landings.

HB 1160, establishing a committee to study college tuition savings plans for New Hampshire colleges.

HB 1619-A, authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River.

HB 1258, establishing a committee to study medication management for patients with prescriptive drugs.

HB 1306, exempting certain outpatient facilities under the licensure law.

HB 1394, establishing a committee to study the reporting of medical test results to health care consumers.

HB 1443-FN-A, relative to the applicability of the meals and rooms tax.

HB 1509, making certain retired physicians immune from civil liability for volunteer health education services.

HB 1522-FN, establishing a committee to review the medicaid rate setting methodology.

HB 1628, relative to methadone maintenance therapy.

HB 1118-FN, establishing a committee to study issues relative to groups and salary ranges which reflect the responsibilities of unclassified employees, excepting the constitutional officers.

HB 1149-L, relative to permits issued prior to burning materials.

HB 1199, relative to the New Hampshire statewide trail system advisory committee.

HB 1203-L, excluding pupils in home education programs from average daily membership in cooperative school district apportionment formulas, and deleting the date for notification for home education.

HB 1271-FN, relative to exposure to infectious disease.

HB 1392, establishing a legislative oversight committee on electric utility restructuring, requiring all electric utilities to submit rate restructuring plans, and establishing restructuring principles to be used by the public utilities commission in assessing and approving utility restructuring plans.

HB 1408, establishing a committee to study the law regarding AIDS.

HB 1492, authorizing a city, town, or the state to allow the operation of OHRVs on certain sidewalks.

RESOLUTION

INTRODUCTION OF HOUSE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 151 - 1628 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 151-FN, establishing a special license plate program, including related fees. Transportation Committee.

HB 306, establishing a family resource council to address the efficient delivery of services to children and families. Public Institutions, Health and Human Services Committee.

HB 378-FN-L, relative to school employee background investigations. Education Committee.

HB 530-FN, transferring the functions and duties of the director of state ski operations. Fish and Game/Recreation Committee.

HB 533-FN, relative to retirement benefits for the state treasurer. Insurance Committee.

HB 547-FN-L, establishing a deferred compensation plan for volunteer firefighters. Executive Departments and Administration Committee.

HB 580-FN, allowing the formation of and regulating limited liability partnerships and providing for registration fees. Banks Committee.

HB 647-FN-A, establishing a municipal bridge repair and a department of transportation "on the shelf" program and continually appropriating the municipal bridge repair and the department of transportation "on the shelf" account and relative to the payment of certain bonds. Transportation Committee.

HB 1172, relative to bridge regulations. Transportation Committee.

HB 1197-L, reclassifying certain roads in the towns of Boscawen and Hampstead. Transportation Committee.

HB 1227-FN, transferring the town of Litchfield from the Nashua District Court to the Merrimack District Court. Judiciary Committee.

HB 1253-FN-A, relative to senior “meals on wheels” and senior transportation and making an appropriation therefor. Public Institutions, Health and Human Services Committee.

HB 1297, relative to the form of the citizenship affidavit. Public Affairs Committee.

HB 1366, requiring the commissioner of the department of corrections to prepare a quarterly report on department of corrections population management. Public Institutions, Health and Human Services Committee.

HB 1505-A, expanding the authority of the commissioner of the department of transportation to use a certain appropriation to purchase airports. Transportation Committee.

HB 1567-FN-A, making a supplemental appropriation to fund the position of state curator and relative to supplemental appropriations for youth development services. Finance Committee.

HB 1586-FN, relative to minimum bonding requirements for postsecondary institutions, and the state share of default costs on certain federal student loans, and nursing service required for cancellation of nursing scholarship loan obligations. Education Committee.

HB 1592-FN, naming a certain segment of highway in Merrimack. Transportation Committee.

HB 1119, allowing an option for reconsideration of votes at village district meetings and relative to the powers of the town of Conway concerning governance of its fire precincts. Public Affairs Committee.

HB 1120, allowing towns to adopt a warrant article to accept personal property donated to libraries. Public Affairs Committee.

HB 1124, relative to the Merrimack county treasurer. Public Affairs Committee.

HB 1125, relative to roads to private recreational areas. Fish and Game/Recreation Committee.

HB 1139-L, relative to the powers of the town of Sunapee concerning governance of the Sunapee water and sewer system. Public Affairs Committee.

HB 1140-FN, repealing the health insurance coverage survey. Insurance Committee.

HB 1156, relative to aircraft landings. Transportation Committee.

HB 1160, establishing a committee to study college tuition savings plans for New Hampshire colleges. Education Committee.

HB 1619-A, authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River. Environment Committee.

HB 1258, establishing a committee to study medication management for patients with prescriptive drugs. Public Institutions, Health and Human Services Committee.

HB 1306, exempting certain outpatient facilities under the licensure law. Executive Departments and Administration Committee.

HB 1394, establishing a committee to study the reporting of medical test results to health care consumers. Public Institutions, Health and Human Services Committee.

HB 1443-FN-A, relative to the applicability of the meals and rooms tax. Ways and Means Committee.

HB 1509, making certain retired physicians immune from civil liability for volunteer health education services. Insurance Committee.

HB 1522-FN, establishing a committee to review the medicaid rate setting methodology. Insurance Committee.

HB 1628, relative to methadone maintenance therapy. Public Institutions, Health and Human Services Committee.

HB 1118-FN, establishing a committee to study issues relative to groups and salary ranges which reflect the responsibilities of unclassified employees, excepting the constitutional officers. Executive Departments and Administration Committee.

HB 1149-L, relative to permits issued prior to burning materials. Environment Committee.

HB 1199, relative to the New Hampshire statewide trail system advisory committee. Fish and Game/Recreation Committee.

HB 1203-L, excluding pupils in home education programs from average daily membership in cooperative school district apportionment formulas, and deleting the date for notification for home education. Education Committee.

HB 1271-FN, relative to exposure to infectious disease. Public Institutions, Health and Human Services Committee.

HB 1392, establishing a legislative oversight committee on electric utility restructuring, requiring all electric utilities to submit rate restructuring plans, and establishing restructuring principles to be used by the public utilities commission in assessing and approving utility restructuring plans. Executive Departments and Administration Committee.

HB 1408, establishing a committee to study the law regarding AIDS. Public Institutions, Health and Human Services Committee.

HB 1492, authorizing a city, town, or the state to allow the operation of OHRVs on certain sidewalks. Fish and Game/Recreation Committee.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 4-FN, relative to the time allowed for postsurgical recovery.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Robert Foster
	Alice Ziegra
	Joan Sullens
	Thayer Kingsbury

Recess.

Senator Colantuono in the Chair.

COMMITTEE REPORTS

SB 554-FN, an act requiring the department of resources and economic development, the office of state planning, Pease development authority, and the business finance authority to make annual reports on their eco-

conomic development programs. Economic Development Committee. Vote: 6-0. Ought to pass with amendment. Senator Johnson for the committee.

4740L

Amendment to SB 554-FN

Amend RSA 12-A:35 as inserted by section 2 of the bill by replacing it with the following:

12-A:35 Limitation. This subdivision shall not apply to state loans or state loan guarantees of less than \$250,000, or to state grants of less than \$50,000.

SENATOR JOHNSON: We had a similar bill to SB 554 last session, but with an amendment that got attached to it, it was vetoed by the governor. All this bill does is require the Department of DRED, the office of State Planning, the PDA and the BFA to make annual reports on their economic development programs. The committee is unanimous in their vote of 6 to 0 of ought to pass.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 572, an act relative to teacher professional standards. Education Committee. Majority report: Inexpedient to legislate. Senator Gordon for the committee. Vote: 4-3. Minority report: Ought to pass. Senator Rubens for the committee. Vote: 3-4.

Senator Rubens moved to have **SB 572**, an act relative to teacher professional standards, laid on the table.

Adopted.

LAID ON THE TABLE

SB 572, an act relative to teacher professional standards.

SB 574, an act defining school district liability for an educationally disabled child who is placed at a county correctional facility. Education Committee. Vote: 7-0. Ought to pass with amendment. Senator Gordon for the committee.

4746L

Amendment to SB 574

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a committee to study issues relating to educationally disadvantaged children who are placed at a county correctional facility.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established; Purpose; Membership. A committee is established to study issues related to providing an appropriate education for inmates in county correctional facilities who are identified as educationally disabled, or who could potentially be educationally disabled, and who do not have a high school diploma and are under 21 years of age. The committee shall consist of the following members:

I. Three members of the senate, one of whom shall be a member of the senate education committee, appointed by the senate president.

II. Three members of the house of representatives, one of whom shall be a member of the house education committee, appointed by the speaker of the house.

2 Report. The committee shall issue a report including the plan for implementing such program, along with recommendations for proposed legislation necessary for implementation and the appropriate source for funding, to the senate president, the speaker of the house, the senate clerk, the house clerk, the state library, the house and senate education committees, and the department of education no later than November 1, 1996.

3 Meetings; Compensation.

I. The first-named senate member shall call the first meeting within 30 days of the effective date of this act, and the committee shall elect a chairperson.

II. Members of the committee shall serve without compensation, except for mileage reimbursement at the legislative rate when attending to the duties of the committee.

4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a committee to study issues relating to educationally disadvantaged children who are placed at a county correctional facility.

SENATOR GORDON: This bill will create a study committee to look into the educational services provided for those educationally disabled people within the county correctional facilities who are under 21 years of age, as well as what entities should be financially responsible for those services. The Education Committee feels that it is important to look into this subject because the educational needs of those educationally disabled people in the county correctional facilities are not being met and a course of action to correct the problem needs to be laid out. The committee voted 7 to 0 as ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

SB 655-LOCAL, an act requiring criminal history records checks for employment applicants if the position would require such applicants to be on school property or with students and requiring termination of school employees convicted of certain crimes. Education Committee. Vote: 7-0. Inexpedient to legislate. Senator Stawasz for the committee.

SENATOR STAWASZ: SB 655 would require criminal history checks for all employment applicants if the position would require the applicant to be on school property or with students and would require termination of school employees convicted of certain crimes. The committee recommends the bill inexpedient to legislate for a couple of reasons. The first is the broad nature of who would be required to have criminal records checks is overreaching. It would require anyone from a roofer, an employee of the roofing company or a person who plows the school parking lot, who runs the dumpster or installs the carpet or whatever, to have criminal record checks for them or any of their employees. It burdens those people with the cost and the checks would be applied to anyone applying for a job and the criminal records check are also not complete, so it would serve no purpose. We urge you find it inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 569-FN, an act reducing the number of liquor commissioners from 3 to one. Executive Departments and Administration Committee. Vote: 4-0. Inexpedient to legislate. Senator Stawasz for the committee.

Senator Stawasz moved to have **SB 569-FN**, an act reducing the number of liquor commissioners from 3 to one, laid on the table.

Adopted.

LAID ON THE TABLE

SB 569-FN, an act reducing the number of liquor commissioners from 3 to one.

Recess.

Senator Podles in the Chair.

SB 502, an act relative to planning board membership and terms. Executive Departments and Administration Committee. Vote: 4-0. Ought to pass. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill provides an option for the town boards of selectmen to appoint administrative officials such as town managers to serve as ex officio members of planning boards. The problem that this is designed to resolve is that in many towns the selectmen are so busy serving not only on their own board but also on other boards that they are out five nights a week and it is very difficult to serve. So this bill would allow them to appoint a town manager or some other official for a term of one year and if they don't want to do that, they can appoint themselves for four-month rotating terms to make more flexibility. We recommend ought to pass.

Adopted.

Ordered to third reading.

SB 557, an act relative to the jurisdiction of the board of manufactured housing. Executive Departments and Administration Committee. Vote: 4-0. Inexpedient to legislate. Senator Colantuono for the committee.

SENATOR COLANTUONO: During the hearing in front of our committee, the prime sponsor came in and requested that it be made inexpedient, so we acceded to his wishes.

Committee report of inexpedient to legislate is adopted.

SB 589, an act relative to the qualifications for members of the fish and game commission. Executive Departments and Administration Committee. Vote: 4-0. Inexpedient to legislate. Senator Stawasz for the committee.

SENATOR STAWASZ: SB 589 would have changed the Fish and Game Commission to allow folks who had not held a fish and game license in past years to be considered for membership. Both the public and the commission and the representatives of many hunting and fishing clubs around the state felt that it would be inappropriate to make such a change where people who had not contributed to the resources that the commission governs to be part of its governing body. We recommend it inexpedient to legislate.

SENATOR PIGNATELLI: The purpose of this bill was to assure a broader range of opinions and viewpoints as the commission goes about discharging its duties to the citizens of our state. Certainly we need members on the commission who have hunting and fishing licenses and are active sportsmen, but it is also very important that other interested citizens be

allowed to serve on this commission. Our wildlife and our beautiful forests and streams and ponds belong to all of us. They are a precious resource. In order to bring the broadest possible perspective to such an important commission, people of different disciplines should be included. When we think about our many other state boards, like the board of medicine and the board of dental medicine, we don't just have doctors on the board of medicine. We don't just have dentists on the board of dental medicine. We have lay people and those lay people have strengthened those boards. I thought we should try to assure similar diversity to the Fish and Game Commission for the very same reason. I might also mention that the prior head of the Fish and Game Commission was supportive of this bill and sent a letter to that effect during the testimony. Thank you very much.

A division vote was requested.

Yeas: 16 - Nays 6

Committee report of inexpedient to legislate is adopted.

SB 622-FN, an act relative to the custody of remains of deceased persons and the profession of embalmers and funeral directors. Executive Departments and Administration Committee. Vote: 4-0. Ought to pass. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill is a request of the board that regulates funeral directors and also of the Association of Funeral Directors. It does two basic things. It updates and streamlines the regulatory language of the statute that governs funeral directors to put it in line with what the attorney general is trying to do with all of the boards and commissions. That is the first half of the bill. The second half of the bill establishes new language which the funeral directors believe they need to set out a chain of custody for the remains of deceased persons to avoid fights that might break out among family members, if you can believe that that would occur, but apparently it does. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

SB 585-FN-A, an act imposing a tax on big game hunting preserve property. Fish and Game/Recreation Committee. Vote: 5-1. Inexpedient to legislate. Senator Danais for the committee.

Senator Danais moved to have **SB 585-FN-A**, an act imposing a tax on big game hunting preserve property, laid on the table.

Adopted.

LAIID ON THE TABLE

SB 585-FN-A, an act imposing a tax on big game hunting preserve property.

Recess.

Senator Cohen in the Chair.

SB 586-LOCAL, an act creating a current use taxation category for big game hunting preserves. Fish and Game/Recreation Committee. Vote: 5-1. Inexpedient to legislate. Senator Danais for the committee.

SENATOR DANAIS: The committee felt that there were some concerns about this issue but this was not the right vehicle to come forward; therefore, we have determined that it was inexpedient to legislate at this time.

Committee report of inexpedient to legislate is adopted.

SB 605, an act relative to insurance coverage for certain services. Insurance Committee. Vote: 5-0. Inexpedient to legislate. Senator Danais for the committee.

SENATOR DANAIS: As prime sponsor I brought this bill in because I felt that the areas of childhood immunizations, cervical cancer screening, prostate cancer screening, physical examinations and prenatal care needed to be better defined in statutes concerning coverage. Since filing the bill I have found that these issues are adequately covered. I asked the Insurance Committee to recommend this bill as inexpedient to legislate, which the committee did.

Committee report of inexpedient to legislate is adopted.

SJR 20, establishing the New Hampshire Commission on the Smithsonian Festival of American Folklife featuring New Hampshire to be held on the National Mall in Washington, D.C., in 1999. Public Affairs Committee. Vote: 6-0. Ought to pass. Senator Rubens for the committee.

SENATOR RUBENS: SJR 20, a non-binding bill, creates a commission for the purposes of organizing and coordinating New Hampshire's role in the 1999 Smithsonian Festival of American Folklife. New Hampshire has had the distinct honor to be a feature state during this two-week long festival in 1999. Roughly one and a half million people will attend this festival which provides New Hampshire an extraordinary advertising opportunity. The commission will have among its responsibilities the task of raising between \$300,000, and \$500,000 from the private sector. The more money raised directly correlates with the number of individuals who will be able to demonstrate their professions in Washington. The Smithsonian will match any funds raised. This is the first time a state is attempting to raise its portion of the money through private donations. All others have used state appropriated funds. The Public Affairs Committee unanimously recommends SJR 20 as ought to pass.

Adopted.

Ordered to third reading.

SCR 20, demanding that the federal government cease enacting mandates that are beyond the scope of the 10th Amendment to the United States Constitution. Public Affairs Committee. Vote: 3-0. Ought to pass. Senator Rubens for the committee.

Senator Rubens moved to have **SCR 20**, demanding that the federal government cease enacting mandates that are beyond the scope of the 10th Amendment to the United States Constitution, laid on the table.

Adopted.

LAI D ON THE TABLE

SCR 20, demanding that the federal government cease enacting mandates that are beyond the scope of the 10th Amendment to the United States Constitution.

SCR 21, urging the President of the United States and Congress to establish an independent commission to advise Congress on campaign finance reform legislation. Public Affairs Committee. Vote: 5-1. Ought to pass with amendment. Senator Larsen for the committee.

4661L

Amendment to SCR 21

Amend the resolution by replacing all after the enacting clause with the following:

Whereas, during a joint discussion in Claremont, New Hampshire in June, 1995, President Clinton and Speaker of the House Newt Gingrich agreed to establish a nonpartisan commission to work to reform lobbying and campaign finance practices; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring:

That the New Hampshire general court urges the President of the United States and the United States Congress to work together and establish a nonpartisan and independent commission modeled after the base closing commission to write legislation to restrain lobbyists and gifts to members of Congress, and to bring about campaign reform;

That the New Hampshire general court hereby urges the President of the United States and the United States Congress to enact into law, as a first step, legislation substantially similar to "The Senate Campaign Finance Reform Act of 1995" also known as the "McCain-Feingold bill" (S. 1219); or "The Bipartisan Clean Congress Act" also known as the "Smith-Meehan bill" (H.R. 2566); and

That copies of this resolution, signed by the president of the senate, be forwarded by the senate clerk to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the New Hampshire Congressional delegation.

AMENDED ANALYSIS

This senate concurrent resolution urges the President of the United States and Congress to work together and establish an independent commission to write legislation to restrain lobbyists and gifts to members of Congress, and to bring about campaign reform.

SENATOR LARSEN: SCR 21 urges President Clinton and Speaker Gingrich to follow through on their agreement to establish a bipartisan commission to reform the campaign finance laws. Campaign finance reform is seen throughout the country as an instrument in changing the way things are done in Washington. People already feel that politicians are bought and paid for by lobbyists and other special interest groups. We all know the distrust that there is in our elected officials by the American people. Changing the manner in which elections are financed is the best way to renew people's trust in the American system of government again. SCR 21 also urges the president and congress to pass legislation similar to The Bipartisan Clean Congress Act or the Senate Campaign Finance Reform Act of 1995. It doesn't say you have to pass exactly that; it says substantially the same. We are not endorsing the exact words; we are saying "substantially" those bills. Both of these pieces of legislation represent the first time in the history of this country in which congress has attempted to reform the campaign finance laws. Both bills incorporate voluntary spending limits, reduction in PAC contributions from \$5,000 down to \$1,000, a ban on soft money and bundling money and a requirement that at least 60 percent of all contributions be raised from within the candidate's home state. The people of this state and this country clearly want campaign finance reform. The Public Affairs Committee felt at its earlier vote that the elected officials in this state should voice their strong support for these initiatives now being discussed at the federal level. Passing campaign finance reform legisla-

tion now means that at the next federal election cycle in 1998 we can begin to implement these restrictions and, in doing so, begin to restore the public faith in government. The Public Affairs Committee recommended SCR 21 as ought to pass as amended.

SENATOR BARNES: I would like to move to recommit SCR 21 to the Public Affairs Committee. The Public Affairs Committee, if the Senate agrees, will meet on this immediately after the session and we will have it back on the floor next Tuesday, at our Tuesday session.

SENATOR SHAHEEN: Senator Barnes, didn't this just come from Public Affairs and why does the committee feel like they want to take it back?

SENATOR BARNES: After the vote I received some more information that wasn't available to me before the vote and I would like to present it to the committee.

SENATOR SHAHEEN: Please. Can you give us some idea of what that information addresses?

SENATOR BARNES: Yes. Two pieces of legislation that are referred to in the legislation, one of them the McCain-Feingold bill and I believe the other one is the Smith-Meehan bill. Those bills have not been debated on the floor of congress yet. And as we all know, what comes in doesn't always come out the same way. I personally think that we should discuss this in committee before we commit ourselves to that section of the bill. Personally, I am going to recommend in front of the committee that we delete that one paragraph and the rest of the bill goes. Then we can bring that up on the floor to pass. None of us are against campaign reform. We are all in favor of that. But for us to commit ourselves to something that we don't know what we are committing for, doesn't make a lot of sense to me.

SENATOR SHAHEEN: Thank you.

Senator Barnes moved to recommit.

Adopted.

SCR 21 is recommitted to the Public Affairs Committee.

Recess.

Senator Russman in the Chair.

SB 539-FN, an act requiring law enforcement officers to submit to a drug and alcohol blood test if involved in a motor vehicle accident causing injury or death. Transportation Committee. Vote: 7-0. Ought to pass with amendment. Senator F. King for the committee.

4791L

Amendment to SB 539-FN

Amend the title of the bill by replacing it with the following:

AN ACT

requiring all drivers to be tested for evidence of
blood alcohol and drug content if involved in
a motor vehicle accident causing death.

Amend the introductory paragraph of RSA 265:93 as inserted by section 1 of the bill by replacing it with the following:

When an accident results in death [or serious bodily injury] to any person, all drivers involved, whether living or deceased, and all deceased vehicle occupants and pedestrians involved shall be tested for [blood]

evidence of alcohol [content] or other drugs. A law enforcement officer shall request a licensed physician, registered nurse, certified physician's assistant or qualified laboratory technician to withdraw blood from each driver involved if living and from the body of each deceased driver, deceased occupant or deceased pedestrian for the purpose of testing [blood alcohol content; provided that in the case of a living driver the officer has probable cause to believe that the driver was under the influence of alcohol or a controlled drug when driving the vehicle] **as to whether it contains evidence of alcohol or other drugs.** All tests made under this section shall be conducted by the division of public health services or in any other laboratory capable of conducting such tests which is licensed under the laws of this or any other state and which has also been licensed by the U.S. Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1967, as amended. A copy of the report of any such test shall be kept on file by the medical examiner. The filed report is not a public record under RSA 91-A. However, the report shall be made available to the following:

AMENDED ANALYSIS

This bill requires any driver involved in a motor vehicle accident resulting in a fatality to be tested for evidence of blood alcohol and drug content.

SENATOR F. KING: Mr. President and members of the Senate, SB 539, as amended, requires that all drivers involved in motor vehicle accidents which result in a fatality be tested for evidence of alcohol or drugs. Currently, police officers can only request these tests if there is probable cause, that is, beer cans in the vehicle, the smell of alcohol on the breath and so on. The Transportation Committee feels that a fatal accident should sufficiently serve as a probable cause to require that all drivers involved be tested for drugs or alcohol. The Transportation Committee recommends this bill as ought to pass as amended.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 567-FN, an act requiring emergency vehicles to have blue lights and sirens on when speeding or disregarding rules of the road when responding to an emergency or for any other reason. Transportation Committee. Vote: 7-0. Inexpedient to legislate. Senator Currier for the committee.

SENATOR CURRIER: During the public hearing, the committee discovered that the intent behind SB 567 is already part of the existing law for police agencies throughout the state. The unfortunate incident which gave rise to this bill was obviously a situation in which this policy was being violated by the police officer who was in pursuit of a suspect. The Transportation Committee unanimously finds this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 570, an act relative to the transportation of dogs in motor vehicles. Transportation Committee. Vote: 6-1. Ought to pass with amendment. Senator Fraser for the committee.

4792L

Amendment to SB 570

Amend the bill by replacing section 1 with the following:

1 New Section; Transporting Dogs in Motor Vehicles. Amend RSA 644 by inserting after section 8-e the following new section:

644:8-f Transporting Dogs in Motor Vehicles.

I. No person driving a motor vehicle shall transport any dog in the back of the vehicle in a space intended for any load on the vehicle on a public way, unless the space is enclosed or has side and tail racks to a height of at least 46 inches extending vertically from the floor, the vehicle has installed means of preventing the dog from being discharged, or the dog is cross tethered to the vehicle or is protected by a secured container or cage, in a manner which will prevent the dog from being thrown, falling, or jumping from the vehicle.

II. Notwithstanding paragraph I, this section shall not apply to the following:

(a) A dog being used by a farmer or farm employee while engaged in farming activities; or

(b) A hunting dog being used by a licensed hunter during a legal hunting season or a dog in training for such purpose.

III. Any person who violates this section shall be guilty of a violation.

AMENDED ANALYSIS

This bill imposes certain safety requirements in the transportation of certain dogs in the back of motor vehicle.

SENATOR FRASER: Mr. President, before I give my report on the content of the bill, I would like to say that I have never been a big supporter of this type of legislation, but the overpowering presentation that was made by Senator Roberge and those folks who support this legislation not only persuaded me to support this, but also to consider it privilege to bring it to the floor this morning. SB 570 imposes safety requirements for dogs being transported in the back of pickup trucks. The committee heard extensive testimony from individuals in the veterinary field about death and injuries sustained to animals when thrown from or jumping out of a pickup truck. In some instances, injuries have been incurred by people traveling in vehicles behind the pickup truck. The restraints referenced in the bill are very effective in protecting dogs and are relatively inexpensive, some costing as little as ten dollars. The amendment provides an exemption for hunters and farmers who use their dogs while performing these functions. The Transportation Committee recommends this bill as ought to pass as amended. Thank you, Mr. President.

SENATOR BARNES: Senator Fraser, does this bill include pussy cats?

SENATOR FRASER: As a matter of fact, it doesn't, Senator. It only refers to dogs.

SENATOR BARNES: Okay, thank you.

Amendment adopted.

Ordered to third reading.

Senator Colantuono in opposition to SB 570.

SB 543-FN-A-LOCAL, an act designating a portion of the business profits tax to be distributed to the cities and towns and making an appropriation therefor. Ways and Means Committee. Vote: 4-1. Inexpedient to legislate. Senator Barnes for the committee.

Senator Barnes moved to have **SB 543-FN-A-LOCAL**, an act designating a portion of the business profits tax to be distributed to the cities and towns and making an appropriation therefor, laid on the table.

Adopted.

LAID ON THE TABLE

SB 543-FN-A-LOCAL, an act designating a portion of the business profits tax to be distributed to the cities and towns and making an appropriation therefor.

SB 607-FN-A-LOCAL, an act lowering the business profits tax. Ways and Means Committee. Vote: 4-1. Inexpedient to legislate. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, as you remember in the last session of the legislature, Senator Lovejoy was very disturbed because of the tax credits that were not given to one of the companies in his area, Prime Tanning, and he promised the senate that he would come back with a bill to lower the business profits tax and he was good to his word. Senator Lovejoy came in and gave us some excellent testimony on why we should lower it. Since that time, and with the testimony that was given before Ways and Means, especially by the Governor's office, there is no money to be able to do this. This would cost the general fund about \$11.1 million or close to \$12 million if we do that. I am sure that most of you know that our revenue projections are behind in the state of New Hampshire, and these are my words now, this is not the committee's words, these are my words. The state of New Hampshire is facing, in 1996, between a forty and fifty million dollar shortfall. That doesn't include the shortfall that comes out of Health and Human Services. Mr. Morton has told us that there is another \$10 to \$20 million that may come out of there before we get through. I am talking about 1996; I am not talking about 1997. I emphasize that these are my words, these are not the Ways and Means Committee's words, these are my words. So I think that the state of New Hampshire has got some problems. We are not going to have a supplemental budget. That has been decided upon, although I think people in the House are really upset about that. I know that Channing Brown is, because he sees there are some really serious problems in 1996. Mr. Morton has said that out of the \$10 to \$20 million dollars that he will be short in 1996 he will probably be able to make it up by shifting different things around. Well, I remind all of you that lapses can only be counted so many times. If he is going to cut \$10 million out of Health and Human Services lapses then certainly he can't count them twice. I bring that up, and this is testimony that . . . by the way, there was no one from the business community that came in and gave any overwhelming testimony to lower the business profits tax. It seems like that is a given. They are satisfied with it and that's the way it should be. I emphasize again, the state of New Hampshire - and a lot of people are talking about it right now because of what is going on in our state - has a lot of problems facing it in the 1996 budget. I can tell you that if 1996 has got some problems, I can assure you that 1997 will have some, too. So the committee agreed that until we know what is happening with block grants in the budget on the federal level, we thought we were acting a little bit prematurely in forecasting funding that I just talked about. By lowering the business profits tax, there would be a loss of about \$11 to \$12 million dollars. That was estimated by Revenue Administration for the state of New Hampshire. So again, the committee voted inexpedient to legislate, but I just hope that you listen to my words about what is happening, the budget problems that we have in the state of New Hampshire because I believe that they are going to have to be addressed very shortly.

Senator Barnes moved to have **SB 607-FN-A-LOCAL**, an act lowering the business profits tax, laid on the table.

Adopted.

LAID ON THE TABLE

SB 607-FN-A-LOCAL, an act lowering the business profits tax.

Senator Colantuono in opposition to inexpedient to legislate on **SB 607-FN-A-LOCAL**.

Recess.

Senator Shaheen in the Chair.

SB 643-LOCAL, an act requiring housing authorities to make the same payments in lieu of taxes as other nonprofit housing projects. Ways and Means Committee. Vote: 6-0. Interim study. Senator Fraser for the committee.

SENATOR FRASER: The Senate Ways and Means Committee recommends interim study on **SB 643**. This bill will make the housing authority's projects subject to the same payments in lieu of taxes as other nonprofit housing projects. It has come to the attention of the committee that the house currently has two bills similar in nature, **HB 345** and **HB 1381**, which are more inclusive and may do a better job. We urge adoption of the committee report.

Adopted.

SB 643-LOCAL is sent to interim study.

SB 651, an act providing for horse racing purse parity. Ways and Means Committee. Vote: 3-1-1. Ought to pass with amendment. Senator Fraser for the committee.

4768L

Amendment to SB 651

Amend the title of the bill by replacing it with the following:

AN ACT

redistributing breakage for running horse races and establishing
a committee to examine certain aspects of the
pari-mutuel industry.

Amend the bill by replacing all after the enacting clause with the following:

1 Breakage Redistributed. Amend RSA 284:22, I to read as follows:

I. The commission on all win, place and show pari-mutuel pools at tracks or race meets at which running horse races are conducted for public exhibition shall be uniform throughout the state at the rate of 19 percent of each dollar wagered in such pools, and the commission on all other pari-mutuel pools at such tracks or race meets shall be at the rate of not less than 26 percent of each dollar wagered in such pools and not more than 27 percent of each dollar wagered in such pools as determined from time to time by the licensee which conducts live running horse races after written notice to the commission and, in the absence of written notice, at the rate of 26 percent of each dollar wagered in such pools. Except as provided in RSA 284:22-a, the amount of the purse at such tracks or race meets at which running horse races are conducted shall be 8-1/4 percent of each dollar wagered in all pari-mutuel pools, said 8-1/4 percent to be paid by the licensee out of the commission on such pools. In addition to

the above commission, 1/2 of the odd cents of all redistribution based on each dollar wagered exceeding a sum equal to the next lowest multiple of 10 (except, with simulcast wagering, in cases where the licensee pays out more than the total amount in the pool, the lowest multiple of 5 shall be used), known as "breakage," shall be retained by the licensee, and the balance of such breakage shall be paid to the [state treasury for the use of the state in accordance with the provisions of RSA 284:2. During the calendar years 1995, 1996 and 1997, 3/4 of the breakage shall be paid to the state and 1/4 of the breakage shall be retained by the licensee, unless the payment by the licensee set forth in RSA 284:23, I(b) is made to the state. In such event, 1/2 of the breakage shall be retained by the licensee and 1/2 of the breakage shall be paid to the state.] ***pari-mutuel commission. The pari-mutuel commission shall distribute such breakage to the licensee which conducts live thoroughbred horse racing to supplement purses of live thoroughbred races.*** Each licensee shall pay the tax provided for in RSA 284:23.

2 Committee Established. There is hereby established a committee to examine the pari-mutuel industry, including how the purse is distributed and how pari-mutuels are taxed.

3 Membership. The members of the committee shall be:

I. Three house members, one from the house finance committee, one from the commerce, small business, consumer affairs and economic development committee, and one from the regulated revenues committee; appointed by the speaker of the house. One of the 3 house members shall represent the minority party.

II. Three senators, one from the senate ways and means committee, one from the economic development committee, and one from the senate finance committee; appointed by the senate president. One of the 3 senators shall represent the minority party.

4 Meetings; Chair. The first-named senator shall call the first meeting within 30 days of the effective date of this act. The committee shall choose a chair from among its members at the first meeting.

5 Report. The committee shall report its findings and recommendations, including any proposed legislation, to the president of the senate, the speaker of the house, the senate clerk, the house clerk, the state library, and the governor on or before November 1, 1996.

6 Compensation. Members of the committee shall receive mileage at the legislative rate when attending to their duties on the committee.

7 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill changes how the purse is distributed for certain running horse races.

This bill establishes a committee to examine certain aspects of the pari-mutuel industry. The committee shall report its findings on or before November 1, 1996.

SENATOR FRASER: Madam Chairman, SB 651, as amended, is the work of several groups working towards a solution for the very important industry in the state of New Hampshire, the pari-mutuel industry. New Hampshire was the first state in New England to permit pari-mutuel thoroughbred racing. Today the industry faces uncertainty. The horsemen came to me seeking a mechanism to increase purses at Rockingham Park and thereby reduce some of that uncertainty. The track appeared before the Senate Ways and Means Committee and demonstrated that our tax structure makes competition extremely difficult, where the Mas-

sachusetts tax structure is dramatically lower than ours. The horsemen, the track, and I then met over several weeks to create this amendment and, fellow senators, I am very pleased and proud to present this to you today. The first section of this amendment provides that the breakage from thoroughbred races, which the state receives, will be paid to the pari-mutuel commission to supplement purses. This amounts to somewhere between three and four hundred thousand dollars annually. Breakage is those odds cents on any bet that is made in New Hampshire. For example, if a winning bet pays two dollars and fourteen cents on a two dollar bet, the bettor receives two dollars and ten cents and the track receives two cents, the state receives two cents. It is the portion that the state receives that will go into the purses. The goal is to increase purses and thereby improve the handle. The second part of this amendment establishes a study committee to look at our pari-mutuel industry, the tax structure and proposed recommendations for the 1997 session. We are going to dialogue and the amendment will continue that effort. I understand that SB 651, as amended, will go to Senate Finance. I recommend that SB 651, as amended, be referred to Senate Finance for review and consideration. Thank you, Madam President.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 665-FN, an act relative to liquor licenses for a sports/entertainment complex. Ways and Means Committee. Vote: 4-2. Ought to pass with amendment. Senator Danaïs for the committee.

4762L

Amendment to SB 665-FN

Amend the bill by replacing all after section 1 with the following:

2 New Subparagraph; On-Sale Cocktail Lounge Licenses. Amend RSA 178:20, V by inserting after subparagraph (t) the following new subparagraph:

(u) Sports/Entertainment Complex.

(1) The commission may issue a cocktail lounge license to the owner of a sports/entertainment complex, or any operator or designee contracting with the owner of the complex. Such license shall allow the sale or service of liquor or beverages in any clearly defined areas approved by the commission. Liquor or beverage shall be sold only at such times as a fee is charged for admission to an event at the sports/entertainment complex. Liquor or beverage shall not be sold at any interscholastic event. The provisions of RSA 178:20, II shall not apply to this license.

(2) The commission may issue to any sports/entertainment complex licensed under subparagraph (u)(1) a supplemental license to set up a separate bar facility to serve liquor and beverages to private groups in any area approved by the commission. The supplemental license shall allow the sports/entertainment complex to hold up to 9 events, 18 events, 36 events and 52 events for the fees established in RSA 178:27, I. The sports/entertainment complex shall be responsible for compliance with this title and any rules adopted under it. The sports/entertainment complex shall notify the commission at least 5 days before any scheduled event which shall be serviced by such bar facility. The commission may suspend the use of any bar facility without affecting the status of any license in effect on the sports/entertainment complex premise.

3 Sports/Entertainment Complex; Fees for Licenses. Amend RSA 178:27, I to read as follows:

I. On-sale licensees shall pay the following applicable fees annually:

	Supplemental Only	Beverages and Wine	Beverages and Liquor	Cocktail Lounge
Airport				\$1,200
Alpine Slide				1,200
Ballroom	\$ 45			1,200
Bed and Breakfast		\$480	\$840	
Billiards/Pool Hall				1,200
Bowling Facility				1,200
Catering (all)				1,200
Catering (off-site only)				840
Catering (on-site only)				
18 events -	5			
36 events -	5			
52 events -	5			
Club Military				100
Club Social				1,200
9 events -	250			
18 events -	450			[1,200]
36 events -	750			
52 events -	1,200			
Club Veterans				840
9 events -	250			
18 events -	450			[840]
36 events -	750			
52 events -	1,200			
College Club				1,200
Convention Center				2,400
Dining Car		480	840	
Fairs		112		
Golf Facility				1,200
Hotel			840	1,200
One Day License				100
Performing Arts				360
Racetrack/Motor Vehicle				1,800
Racetrack/Pari-mutuel				3,000
Racquet Sports				1,200
Rail Cars				1,200
Restaurant		480	840	1,200
Ski Facility				1,200
Special License			25	
Sports/Entertainment Complex				1,800
9 events	250			
18 events	450			
36 events	750			
52 events	1200			
Vessel		480	840	1,200

4 Effective Date. This act shall take effect July 1, 1996.

AMENDED ANALYSIS

This bill permits the liquor commission to issue a cocktail lounge license and supplemental licenses for a sports/entertainment complex. The bill also establishes fees for such licenses.

SENATOR DANAIS: This bill is recommended as ought to pass with amendment. It will allow sports/entertainment complexes, such as the new Whittemore Center at UNH, to serve alcohol in designated areas during intercollegiate games or other special events. It is important that this bill be passed in order to allow entertainment complexes to raise revenue and set guidelines for the sale of alcohol for future entertainment complexes in the state of New Hampshire. Thank you, Madam President.

SENATOR COLANTUONO: I would like to rise to explain why there were two votes in the committee against the passage of the bill as amended. The concern of the two votes is that this bill would allow the sale of alcoholic beverages at college athletic events. If you notice the wording of the amendment, there is language in there that does not allow the sale of alcoholic beverages at interscholastic events. That was placed in there by the proponents of the bill, presumably because they believe that alcohol does not belong in interscholastic events, because high schoolers are not old enough to drink; but the fact of the matter is that most college students aren't old enough to drink either. We believe that college athletic events should be an event for all of the students to come and participate in a nonalcoholic environment and for the fans to come in a fan-friendly manner. Now the University of New Hampshire is promoting this bill because they want to get a liquor license for the Whittemore Center and we think that is fine; it is a great idea. And what they told us was that they only intend to sell alcoholic beverages in the sky boxes during their college sporting events and that, also, might be a good idea. The problem with the bill is that it doesn't say that. The bill allows the Liquor Commission to give a license to any sports complex, including the QuadraPlex or the CenterPlex or the baseball stadium over here in Concord or anything else that might be built and it gives to the State Liquor Commission the right and the power to define where alcohol will be sold. In other words, it passes the buck to them. We believe that the buck should stop here and that we should set the policy on something as important as alcohol sales, especially when it affects minors. It could be involved with minors, because we all know that there is really no effective way to police alcohol when it comes to college students. We think that we should be setting the policy and saying "no sales at college games" or else put in specific language in the bill that it should be restricted only to the specialized areas like sky boxes. So that was the reason for the two votes in opposition to it.

Recess.

Senator Barnes in the Chair.

SENATOR DANAIS: I would like to respond to the comments that were brought forward by Senator Colantuono regarding this. This bill was brought forward at the request of the State Liquor Commission. Currently the State Liquor Commission does not have a sports/entertainment complex license. The only reason that they don't have such a license is because they never needed one. There was never a facility in the state of New Hampshire that met the criteria outside of the licensing formulas that the state of New Hampshire Liquor Commission has. Since the

Whittemore Center at UNH has been built, one of the provisions and one of the ways that the campus could afford that Center was through sky boxes. When sky boxes are sold, they are sold for the purpose of seeing the event, but also for a lot more social functions. It was the intent of the Liquor Commission that the sky boxes were going to be designated as the areas where you could sell and consume alcoholic beverages. The other area in the Whittemore Center is a function facility that could seat and accommodate up to two hundred people. That area, which is not in the general seats, is another area where, during an intercollegiate game, they could be holding a completely separate function and they wanted the ability to serve alcohol there. The majority of the committee felt that the board of trustees had enough responsibility and supervision that they could carry forward the wishes that Senator Colantuono brought forward. The second point that I would like to bring up is that this bill is designed as a universal bill for a sports/entertainment complex facility. As you well know, there is legislation, as well as people working, for the establishment of two separate facilities in the state of New Hampshire - actually three facilities if you count the one in Concord, the CenterPlex in Manchester and you count QuadraPlex in Raymond. Those facilities all need this license. Again, the committee felt that it was not our job to micromanage the facility and who was going to and where they were going to serve alcohol. We felt that the Liquor Commission has enough responsibility to do that, so we brought forward a general sports/entertainment complex license and that is exactly what this is for. Thank you.

SENATOR SHAHEEN: I think that it is critical to point out to Senators that there was testimony from UNH that there was no intent whatsoever, under any circumstances whatever, for all time - I can't emphasize that enough - to sell liquor in the public seating area at the Whittemore Center. That was not the intent of the legislation. The concern was twofold, as Senator Danais has pointed out. I ought to add that for those of you who aren't familiar with UNH, that there is a significant program underway there and has been for a number of years, to address underage drinking on campus. I don't have any concern living in that community, watching what is going on relative to the attempt to address alcohol that there might at some time be an effort to sell liquor in that sports complex in the public seating area. But as Senator Danais pointed out, the concern was twofold. It was for marketing the sky boxes and it was also for potential future fund-raising events with alumni that might not sell alcohol, but where they might want to serve alcohol in the function room, in the sky boxes at athletic events. It seems to me that this is an option that we ought to allow the Liquor Commission and the board of trustees to control at UNH, that the legislature should not try to micromanage that effort.

Recess.

Senator Colantuono in the Chair.

Senator Barnes moved to have **SB 665-FN**, an act relative to liquor licenses for a sports/entertainment complex, laid on the table.

Adopted.

LAI D ON THE TABLE

SB 665-FN, an act relative to liquor licenses for a sports/entertainment complex.

TAKEN OFF THE TABLE

Senator Cohen moved to have **HB 301**, an act prohibiting certain evidence in sexual assault cases, taken off the table.

Adopted.

HB 301, an act prohibiting certain evidence in sexual assault cases. Judiciary Committee. Senator Shaheen for the committee.

SENATOR COHEN: I am sure you remember from last year there was discussion on HB 301 in the Senate Judiciary Committee. There was a committee amendment that was put onto the bill, and it was then sent over to the Supreme Court for an opinion. The question to the Supreme Court was whether or not the bill was constitutional. The Senate Committee proposed an amendment to ensure that the bill passed constitutional muster. The Senate then tabled the bill and asked the Supreme Court to rule on whether the original House version of the bill was constitutional. The court ruled last summer that HB 301 was, indeed, constitutional on its face, the original House Bill. I would like to read a couple of quotes from the Supreme Court, "This bill may be construed as a legislative determination that society will not permit an individual to rely on another's manner of dress as a signal of consent to sexual activity." The court said, "Such a determination is within the legislature's authority." The court goes on to say "Because such evidence has no relevance to the issue of consent, . . . We conclude that evidence of a sexual assault victim's manner of dress when offered on the issue of consent is not 'favorable proof' or evidence about which a defendant has the right to cross examine . . . that proposed legislation is not offensive to the constitution, for it is understood that the statute if enacted will be construed harmoniously with an individual's constitutional rights in any given case." The Judiciary Committee amendment, therefore, is no longer needed. I would urge your support in now defeating that amendment.

SENATOR F. KING: The effective date on the bill is January 1, 1996 and I wonder if that is appropriate?

Recess.

Out of recess.

Question is on the committee amendment.

Senator Shaheen moved to have **HB 301**, an act prohibiting certain evidence in sexual assault cases, laid on the table.

Adopted.

LAID ON THE TABLE

HB 301, an act prohibiting certain evidence in sexual assault cases.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourned until Tuesday, February 13, 1996 at 10:00 a.m.

Adopted.

LATE SESSION**Third Reading and Final Passage**

SB 502, an act relative to planning board membership and terms.

SB 570, an act relative to the transportation of dogs in motor vehicles.

SB 574, establishing a committee to study issues relating to educationally disadvantaged children who are placed at a county correctional facility.

SB 622-FN, an act relative to the custody of remains of deceased persons and the profession of embalmers and funeral directors.

SJR 20, establishing the New Hampshire Commission on the Smithsonian Festival of American Folklife featuring New Hampshire to be held on the National Mall in Washington, D.C., in 1999.

Senator J. King moved that the business of the day being completed that the Senate now adjourn until Tuesday, February 13, 1996 at 10:00 a.m.

Adopted.

Adjournment.

February 13, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Carolyn H. Keilig, the Senate Guest Chaplain.

Gracious God, as the chill of the early New Hampshire morning awakens us to a new day, may we be awakened anew to Your presence in our lives. Let the sure and certain knowledge of Your Spirit in our midst strengthen us in all we do. May Your Spirit grant us minds that sift through the choices we are faced with, to choose the path that pleases You, so that we may honor You in our deliberations. And may our work reflect Your justice, Your compassion, and Your love for all people. We ask Your blessings, too, on all men and women seeking public office. As they have chosen to serve this nation, may they also always seek to serve You.
Amen

Senator Currier led the Pledge of Allegiance.

INTRODUCTION OF GUESTS**SUSPENSION OF THE RULES**

Senator Barnes moved that Senate Rule 17A and 17B be suspended to allow the introduction of a Senate Bill after the deadline.

SB 667, naming the new Coos county courthouse the John D. Morton, Sr. courthouse.

Adopted by the necessary 2/3 vote.

INTRODUCTION OF A SENATE BILL

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bill numbered 667 shall be by this resolution read a first and second time by the therein listed title, laid on the table for printing and referred to the therein designated committee.

Adopted.

First and Second Reading and Referral

SB 667, naming the new Coos county courthouse the John D. Morton, Sr. courthouse. (F. King, Dist. 1: Public Affairs)

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 11-L, relative to the application of local land use regulations to governmental units.

SENATE NON CONCURS REQUESTS COMMITTEE OF CONFERENCE

SB 11-L, relative to the application of local land use regulations to governmental units.

Senator Rubens moved nonconcurrence and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as said members of said Committee of Conference:

SENATORS: Rubens, Cohen, Stawasz.

COMMITTEE REPORTS

SB 513, an act requiring attorneys to be bonded through the New Hampshire Bar Association. Insurance Committee. Vote: 6-0. Ought to pass with amendment. Senator Fraser for the committee.

4710L

Amendment to SB 513

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a study committee on bonding or other alternatives to protect client trust funds held by attorneys.

Amend the bill by replacing all after the enacting clause with the following:

1 Study Committee; Attorneys; Bonding or Other Alternatives.

I. There is established a committee to study the feasibility of requiring individual attorneys or the New Hampshire Bar Association to maintain a bond in order to protect client trust accounts. The committee shall study the current procedures and rules in place to protect client trust funds as well as the feasibility of requiring a bond to protect client trust fund accounts. The committee shall also study possible alternatives to bonding, including enhanced funding of the client indemnity fund operated by the New Hampshire Bar Association.

II. The committee shall consist of 5 senators appointed by the senate president and 5 house members appointed by the speaker of the house. The study committee shall include 3 members of the senate insurance committee; one member of the senate judiciary committee; one member of the senate executive department and administration committee; 2 members of the house commerce, small business, consumer affairs and economic development committee and 3 members of the house judiciary and family law committee.

III. The first-named senate member shall call the first meeting of the committee within 60 days of the effective date of this act.

IV. After receiving input from the New Hampshire Bar Association, representatives of the supreme court and interested public members, the committee shall submit a report, including recommendations for legislation or rulemaking, if appropriate, on or before November 1, 1996, to the governor, the chief justice of the supreme court, the speaker of the house, the senate president, the house and senate clerks and the state library.

2 Gender-Neutral Language Added. Amend RSA 311:1 to read as follows:

311:1 Right to Appear, etc. A party in any cause or proceeding may appear, plead, prosecute or defend in his *or her* proper person, ***that is, pro se***, or by any citizen of good character.

3 Gender-Neutral Language Added. Amend RSA 311:5 to read as follows:

311:5 Limitation. No person shall act as attorney in any cause in which [he] ***the person*** has acted as judge.

4 Surety Bond Required. Amend RSA 311:7 to read as follows:

311:7 Prohibition. No person shall be permitted commonly to practice as an attorney in court unless [he] ***the person*** has been admitted by the court [and], taken the oath prescribed in RSA 311:6, ***and obtained a surety bond as required under RSA 311:6-a.***

5 Gender-Neutral Language Added. Amend RSA 311:7-a and 7-b to read as follows:

311:7-a Petition for Injunction.

I. Upon [his] ***the attorney general's*** own information or upon complaint of any person, including any judge or any organized bar association in this state, the attorney general may maintain an action for injunctive relief in the supreme or superior court against any person who renders, offers to render, or holds himself *or herself* out as rendering any service which constitutes the unauthorized practice of the law. Any organized bar association in this state may intervene in the action, at any stage of the proceeding, for good cause shown.

II. The action may also be maintained by the bar association of the state of New Hampshire.

311:7-b Investigation by Attorney General.

I. The attorney general may investigate any complaint of unauthorized practice of the law and the attorney general, or a deputy attorney general or an assistant attorney general designated by [him] ***the attorney general***, may subpoena witnesses, compel their attendance, examine them under oath, and require the production of any relevant documentary evidence.

II. The laws relating to the attendance of witnesses in civil actions and the payment of their fees and expenses to those witnesses shall apply to investigations made by the attorney general [hereunder].

III. If a person fails or refuses to obey a subpoena or to testify as to any material matter regarding which [he] ***the person*** may be interrogated, the superior court, upon application by the attorney general, may issue to the person an order requiring [him] ***the person*** to appear before the attorney general, or a deputy attorney general or an assistant attorney general designated by [him] ***the attorney general***, to produce documentary evidence or testify. Failure to obey the order of the court may be punished by the court as a contempt of court.

IV. When requested, public officers, their assistants, clerks or employees shall furnish to the attorney general, [his] **the** deputy or an assistant attorney general designated by [him] **the attorney general** all information and assistance.

V. Investigations under this section shall be confidential. Any person participating in the investigation who, except as required in the discharge of [his] **the person's** official duties, discloses to any person, other than to a person under investigation, the name of any person under investigation or any witness examined, or any other information obtained in the investigation is guilty of a misdemeanor.

VI. Every person whose conduct is investigated under this section shall be furnished with a written specification of the issues which are to be considered, and shall be given an opportunity to present evidence and be heard upon the specified issues.

6 Gender-Neutral Language Added. Amend RSA 311:8 to read as follows:

311:8 Disbarment, etc. The supreme court shall inquire in a summary manner into any charges of fraud, malpractice, or contempt of court against an attorney, and, upon satisfactory evidence of [his] **the attorney's** guilt, shall suspend [him] **such attorney** from practice, or may remove [him] **the attorney** from office.

7 Gender-Neutral Language Added. Amend RSA 311:10 to read as follows:

311:10 Effect of Suspension, etc. No person while suspended from practice pursuant to RSA 311:8, or until [his] **the person's** restoration to office, shall be permitted to practice as an attorney before any court or magistrate, or elsewhere; and any writ or other process made by such person for another, while thus disqualified, shall be void.

8 Gender-Neutral Language Added. Amend RSA 311:13 to read as follows:

311:13 Lien on Verdict From the commencement of an action, bill in equity or other proceeding in any court, the filing of a counterclaim or plea in set-off or recoupment, or appearance in any proceeding before any state or federal department, board or commission, the attorney who appears for a client in such proceeding shall have a lien for [his] reasonable fees and expenses upon [his] **the** client's cause of action, upon the judgment decree or other order in [his] **the** client's favor entered or made in such proceeding, and upon the proceeds derived therefrom[; and]. The lien cannot be affected by any settlement between the parties before or after the judgment decree or other order. Upon the request of the client or the attorney, the court in which the proceeding is pending, or, if the proceeding is not pending in a court, the superior court, may determine and enforce the lien; provided that this section shall not apply to matters arising under RSA 282-A and any case where the method of determination of attorneys' fees is otherwise expressly provided by statute.

9 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

Section 1 of this bill establishes a study committee on bonding or other alternatives to protect client trust funds held by attorneys.

The remainder of this bill amends gender-specific references in RSA 311 to conform to the requirement of gender-neutral drafting under RSA 17-A:6.

SENATOR FRASER: SB 513 would have required the New Hampshire Bar Association to obtain a surety bond on all attorneys in New Hamp-

shire with the cost of the bonding paid for by individual attorneys through dues. The Insurance Committee feels that the subject of bonding is an important one, but needs more work. The amendment to this bill creates a committee to study the particulars of bonding attorneys in this state so that, hopefully, next year we can have an appropriate plan before the legislature to institute bonding. The committee unanimously recommends this bill as ought to pass with amendment.

Amendment adopted.

Senator Danaïs moved to have **SB 513**, an act requiring attorneys to be bonded through the New Hampshire Bar Association, laid on the table.

Adopted.

LAID ON THE TABLE

SB 513, an act requiring attorneys to be bonded through the New Hampshire Bar Association.

SB 535, an act relative to automobile insurance. Insurance Committee. Vote: 5-0. Ought to pass. Senator Russman for the committee.

SENATOR RUSSMAN: This is another one of those bills as we try to continue to fight auto fraud from people out of state that try to register their cars in here. This is a request from the Insurance Department. This bill puts into law additional requirements that concern the statement of residency. So, hopefully, that will tighten the noose a little bit around those people's necks who are from out of state and insuring their cars in New Hampshire and at an expense to all of us.

Adopted.

Ordered to third reading.

SB 544-FN, an act requiring the New Hampshire retirement system to put out to public bid the contract for the retirement system actuary. Insurance Committee. Vote: 6-1. Inexpedient to legislate. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Yes, Mr. President and members of the Senate, in case any of you are wondering why I have these buttons on my jacket, I haven't worn this suit for about twelve years. This button is Bobby Stephens' pin when he was running for something - I can't remember what. Rhona Charbonneau was running for something over there on the other side of the Senate, but she sat with us so I put one of her buttons on this side. I don't want to take the buttons off because it leaves a rusty spot on my suit, so they will be on for a long time. Mr. President and members of the Senate, SB 544 was introduced by Senator Cohen and I want you to know that it was a necessary bill, because I think that some very good things came about. This would require the New Hampshire Retirement System board of trustees to send out a bid to contract for an actuary. The Retirement Board of Trustees, I think that I proved, does review their selection for an actuary and it has the authority to put out to bid a contract for the actuary. They haven't felt that they wanted to do that, really, because they have been very satisfied with the people that are in the actuary in this group. I truly believe that changing actuaries every two years will cause problems for the state because of the high rate of turnover. The board of trustees has enough latitude, where the actuary is concerned, that this legislation is unnecessary. But I want to emphasize that some good things came out of this and I think that Senator Cohen had every right to put the bill in. There were some problems and

Senator Shaheen mentioned them in the committee, but as of now, we feel that this bill should be inexpedient to legislate because we feel that they have gotten the message.

Committee report of inexpedient to legislate is adopted.

SB 551, an act establishing a committee to review state-funded health care insurance. Insurance Committee. Vote: 5-0. Ought to pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this bill sets up a committee to study how the state provides health insurance to state employees by looking at rating methodology, premium calculations, claims experience, the option of self insurance as well as the option of pooling for insurance. The 1994 report of the state's employee insurance brought up questions on many of these subjects. This committee would serve to answer questions raised about administrative versus medical costs. The bill was heard in the Insurance Committee and was reported out unanimously as ought to pass.

Adopted.

Ordered to third reading.

SB 582, an act requiring automobile insurance companies to offer uninsured motorist coverage as an insurance option, not a requirement. Insurance Committee. Vote: 6-0. Inexpedient to legislate. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, the Insurance Committee felt that making uninsured motorist coverage optional will eventually drive up the cost of everyone's insurance because of the damages that the insurance companies have to cover due to a lack of uninsured motorist coverage. I think that this was put in for a special person. He or she didn't show up for the committee hearing and the committee recommends that this bill be inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

Recess.

Out of recess.

SB 625, an act relative to insurance fraud. Insurance Committee. Vote: 3-0. Ought to pass with amendment. Senator Fraser for the committee.

4643L

Amendment to SB 625

Amend the bill by replacing section 1 with the following:

1 New Sections; Insurance Fraud Investigator. Amend RSA 417 by inserting after section 25 the following new sections:

417:26 Evidence Collection. If, by its own inquiries or as a result of complaints, the insurance department has any reason to believe that a person has engaged in, or is engaging in, any insurance fraud or has violated any provision of RSA 638:20, it may administer oaths, serve subpoenas ordering the attendance of witnesses or production of material, and collect evidence.

417:27 Inspection. If material that the unit seeks to obtain by request is located outside the state, the person so requested may make such material available for examination by the unit or its representative at the place where it is located. The unit may designate representatives,

including officials of the state in which the material is located, to inspect the material on its behalf, and it may respond to similar requests from officials of other states.

417:28 Reporting of Fraudulent Claims by Insurers. Any company which believes that an insurance fraud has been committed shall, within 60 days of the forming such belief, send to the unit, on a form prescribed by the unit, the information requested and such additional information relative to the claim and other parties claiming loss or damage because of the claim as the unit may require. The unit shall review such report and select such claims as, in its judgment, warrant further investigation.

417:29 Fraud Unit Material Information Disclosure. The unit's papers, documents, reports, or evidence relative to the subject of investigation under this section shall remain confidential and shall not be subject to public inspection or disclosure unless and until the subject is prosecuted pursuant to such investigation. Further, such papers, documents, reports or evidence relative to the subject of an investigation under this section shall be privileged and shall not be subject to subpoena, discovery or disclosure in any proceeding other than the action initiated by the unit, until such action has been concluded. For the purposes of this section investigative materials shall include the testimony of unit personnel concerning any matter of which they have knowledge pursuant to a pending insurance fraud investigation by the unit.

Amend the bill by replacing section 26 with the following:

26 Effective Date. This act shall take effect January 1, 1997.

Amendment adopted.

Senator Fraser moved to have **SB 625**, an act relative to insurance fraud, laid on the table.

Adopted.

LAID ON THE TABLE

SB 625, an act relative to insurance fraud.

SB 595, an act relative to licensed insurance agents under workers' compensation. Insurance Committee. Vote: 4-2. Ought to pass. Senator Danaïs for the committee.

SENATOR DANAIS: This bill will enable insurance agents to sell exclusive products of a single company, to be considered independent contractors and be exempt from the workers' compensation laws. These agents work independently from the companies even though they do only sell the one company's product. The IRS considers these agents independent contractors and this bill would bring New Hampshire in line with the federal definition. Some companies do have agents who are employees, but this bill allows those who are independent contractors to be considered such under the law.

Adopted.

Ordered to third reading.

SB 635-FN, an act relative to cost of living adjustments for retired firefighters. Insurance Committee. Vote: 7-0. Ought to pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, if this bill is passed by the Senate, it will, of course, go to Finance. Firefighters in this state have not received an adequate cost of living adjustment in quite a few years. This bill would fund a COLA from the fire

component of the special reserve account. The special reserve account is set aside for COLAs and has enough money in it to fund this bill. That is something we would be discussing in Finance. We feel there is close to \$8 million in the special reserve account and this would cost about \$3.5 million. We are trying to get some updated figures so that I can give them to the Senate Finance chairman when it comes down to Senate Finance. The money in this account, as I said, was put into by firefighters, so I guess our reasoning in our committee was to let them use it for a cost of living adjustment. The committee recommends this bill as ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 659, an act allowing self-employed persons or business owners who have paid into the unemployment compensation fund to collect benefits. Insurance Committee. Vote: 4-3. Ought to pass with amendment. Senator J. King for the committee.

4841L

Amendment to SB 659

Amend the bill by deleting section 1 and renumbering the original sections 2 and 3 to read as 1 and 2, respectively.

SENATOR J. KING: This bill, SB 659, defines how a self-employed person or business owner can collect unemployment compensation. The person must prove by a variety of means that the reason that he left self-employment was because of poor business conditions. The self-employed person must show that the business has made a liquidation type of bankruptcy filing, that the business is insolvent or discontinued and that the business owner has filed an affidavit stating that the business failed for reasons beyond the owner's control. These self-employed business people are required to pay into the unemployment; therefore, this will allow them to collect if their business fails, and whereas they pay, there is no reason why they shouldn't be allowed to collect if the reasons for it exist. Thank you.

Amendment adopted.

Ordered to third reading.

SB 666-FN-A, an act relative to a multi-jurisdictional fuel tax agreement. Interstate Cooperation Committee. Vote: 5-0. Ought to pass with amendment. Senator F. King for the committee.

4844L

Amendment to SB 666-FN-A

Amend the bill by replacing section 7 with the following:
7 Effective Date. This act shall take effect upon its passage.

SENATOR F. KING: Mr. President and members of the Senate, at present, New Hampshire is part of RFTA the Regional Fuel Tax Agreement with Maine and Vermont. The rest of the country is part of IFTA, the International Fuel Tax Agreement. The difference between the two is the minimum weight of trucks to be taxed, with RFTA at ten thousand pounds and IFTA at twenty-six thousand pounds. Maine and Vermont are working in concert to change the RFTA rules to conform with those of IFTA while maintaining the three-state agreement. Effectively doing as they wish, since they out-vote New Hampshire two to one, this bill would allow New Hampshire to drop out of RFTA and join IFTA. In either case, the state stands to lose approximately five million dollars in taxes. The advantage of joining IFTA would be less paper work. At this

time, New Hampshire has to file two sets of papers, those on taxes solely within RFTA and those on taxes limited to trucks belonging to IFTA. This bill will be going to Finance where the committee hopes that a way to recoup some of the lost revenue can be found. The committee recommends ought to pass as amended and the amendment is going to change the date of when it would become effective, to take place upon passage.

SENATOR SHAHEEN: Senator King, for information, can you tell us why we stand to lose \$5 million under either agreement?

SENATOR F. KING: At the present time, we are collecting fuel taxes on trucks down to ten thousand pounds gross vehicle weight. Under IFTA or under the revised RFTA, that Maine and Vermont are recommending, we would only be able to collect taxes down to trucks that weigh twenty-six thousand pounds. That certain group of trucks that are now paying diesel tax will not be paying.

SENATOR SHAHEEN: Why is this happening?

SENATOR F. KING: Well what happens right now is that New Hampshire and Vermont and Maine have an agreement. They have collectively agreed to tax trucks, have a fuel tax on trucks down to ten thousand. New Hampshire will stand alone because Maine and Vermont are going to adopt the resolution to adopt a weight of twenty-six thousand. So whichever way that it goes, we will not be able to tax trucks below twenty-six thousand pounds. The reason that we are dropping out of the three-state consortium and going with the other states is just paper work. Some of the states now collect fuel tax at the pumps.

SENATOR SHAHEEN: Maybe I am not phrasing this correctly. What is the impetus behind the change of the agreement? The trucking lobby has been effective at getting the tax lowered?

SENATOR F. KING: It is something that is happening in Vermont and Maine. They are the ones that are making the changes. No one testified at our hearing that New Hampshire wanted to do this, either the truckers or anyone. There is some question that some large trucking companies that are on the borders will be moving to the other states, or may move to the other states, the trucking companies that operate small trucks, trucks that weigh less than twenty-six thousand. There was testimony that at least in one case that had already happened. New Hampshire is really between a rock and hard place on this issue. We are hoping that if it goes over to Finance TAPE INAUDIBLE. That's \$5 million in fuel tax that the state will no longer collect either way.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SCR 21, urging the President of the United States and Congress to establish an independent commission to advise Congress on campaign finance reform legislation. Public Affairs Committee. Vote: 4-2. Ought to pass with amendment. Senator Rubens for the committee.

4847L

Amendment to SCR 21

Amend the resolution by replacing all after the title with the following:
Whereas, during a joint discussion in Claremont, New Hampshire in June, 1995, President Clinton and Speaker of the House Newt Gingrich agreed to establish a nonpartisan commission to work to reform lobbying and campaign finance practices; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring:

That the New Hampshire general court urges the President of the United States and the United States Congress to work together and establish a nonpartisan and independent commission modeled after the base closing commission to write legislation to restrain lobbyists and gifts to members of Congress, and to bring about campaign reform;

That the New Hampshire general court hereby urges the President of the United States and the United States Congress to enact into law, as a first step, legislation substantially similar to "The Bipartisan Clean Congress Act" also known as the "McCain-Feingold bill" (S. 1219); or the "Smith-Meehan bill" (H.R. 2566); and

That copies of this resolution, signed by the president of the senate and the speaker of the house, be forwarded by the senate clerk to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the New Hampshire Congressional delegation.

SENATOR RUBENS: The issue on this bill which you see on page six of the calendar has some controversy in it. It relates to the second to the last paragraph of SCR 21. I amended the bill, originally put forth by Senator Pignatelli, unilaterally adding the second paragraph and Senator Pignatelli agreed to that. The bill was recommitted to the Public Affairs Committee last week and last Thursday it came back out in the form you now see here on the floor by a 4 to 2 vote. I don't mean to indicate any disrespect for the delegation, the congressional delegation from New Hampshire, who have chosen not sign onto the bills. These bills referenced in the second to the last paragraph are "McCain-Feingold bill," "Smith-Meehan bill." Campaign finance reform is an issue similar to term limits and last year's official ballot bill, SB 2. These are issues that are uncomfortable for incumbents, but we are not here to deal only with comfortable legislation. There is a grass roots revolt going on right now. The American people are highly frustrated by a capture of the people's government by big dollar special interests. The purpose of the second to the last paragraph is to deal with that reform. The campaign finance reform is overwhelmingly desired by the American voters by 70 to 80 percent margins. They want it to be done now, not later. That, again, is the substance of the second to the last paragraph. Bottling this issue up is not something that will make people happy. It will end up potentially leading to a political explosion. These are the "McCain-Feingold" and "Smith-Meehan" bills which are substantially similar to one another. It is the first time in twenty years that serious campaign finance reform is before the congress in Washington. It is the first time in twenty years that actual legislation is before the congress in Washington on campaign finance reform. The campaign finance reform bills before them are not perfect bills. Mr. McCain, himself a Republican from Arizona, is quite conservative and he doesn't feel that the bill is perfect, but nonetheless, the bill as shown asks that legislation substantially similar to this bill be passed this year. This is what the American people want and not identical to those bills, but the substance of SCR 21, as amended, is asking us to ask our delegation to go to work on those bills and to fix them and to do it this year. Don't duck the issue. This is something that overwhelmingly the American people want us to do. Let us go on record saying that we agree with the American people again. This is like term limits. It is like the official ballot bill. It is uncomfortable, but we are doing it because we are here to serve the people. Thank you very much.

SENATOR LARSEN: I just want to clarify for the members of the Senate that this vote is on the amendment. The amendment is the language which says, more specifically, that not only do we generally think campaign finance reform is a good idea, but we think campaign finance reform should happen in this session. The closest we've ever gotten to having something happen in congress is the combination of the "McCain-Feingold" and "Smith-Meehan" bills, bipartisan bills in both houses. We have a choice in this vote right now on whether you are going to support campaign finance reform with some specifics or whether you are going to support campaign finance reform in general terms, but not ever dig in and say we agree with these factors, these points. We have gone through these points in committee and they make a lot of sense. It is time that we voted for this amendment and send a message to Washington that we want action now. This is your choice, right now, on this amendment.

SENATOR PIGNATELLI: I just wanted to point out the two words that are very important to me in this amendment and they are "substantially similar." Those are the two words that are most important to me in this amendment because we are not telling congress that they need to pass the "McCain-Feingold" and "Smith-Meehan" bills. We are telling congress to pass them or something substantially similar, which means get to work and pass some campaign finance reform now. The committee is good, but we need to have these two bills or something substantially similar passed now, this year. Let us get on with it. Thank you.

Question is on the committee amendment.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Larsen.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Blaisdell, Wheeler, Stawasz, Pignatelli, Colantuono, Larsen, Podles, Barnes, J. King, Russman, Danais, Shaheen, Delahunty, Keough, Cohen.

The following Senators voted No:

Yeas: 24 - Nays: 0

Amendment adopted unanimously.

Senator Barnes offered a floor amendment.

4817L

Floor Amendment to SCR 21

Amend the resolution by replacing all after the title with the following:

Whereas, during a joint discussion in Claremont, New Hampshire in June, 1995, President Clinton and Speaker of the House Newt Gingrich agreed to establish a nonpartisan commission to work to reform lobbying and campaign finance practices; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring:

That the general court of New Hampshire urges the President of the United States and the United States Congress to work together and establish a nonpartisan and independent commission modeled after the base closing commission to write legislation to restrain lobbyists and gifts to members of Congress, and to bring about campaign reform; and

That copies of this resolution, signed by the president of the senate and speaker of the house, be forwarded by the senate clerk to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the New Hampshire Congressional delegation.

AMENDED ANALYSIS

This senate concurrent resolution urges the President of the United States and Congress to work together and establish an independent commission to write legislation to restrain lobbyists and gifts to members of Congress, and to bring about campaign reform.

SENATOR BARNES: While you are waiting for this amendment to be passed out, I would ask you all to please give this amendment the same support that you gave previously to the bill. Thank you.

Recess.

Out of recess.

SENATOR RUBENS: The amendment would simply remove that second-to-the-last paragraph which is . . . what we are facing right now is campaign finance reform or blink and removal of the amended second-to-the-last paragraph which would remove the expression of intent and desire by the people of New Hampshire through their vehicle, the New Hampshire Senate, to take specific action within a reasonable time frame. Again, this is what seventy or eighty percent of the American people want us to do. They want us to deal with this issue. They want us to do it in a reasonable, prompt, time frame. There's a vehicle on the floor of the U.S. House and Senate. A vote against the amendment is a vote for specific action within a reasonable time frame.

Floor amendment adopted.

Senator Pignatelli moved to have **SCR 21**, urging the President of the United States and Congress to establish an independent commission to advise Congress on campaign finance reform legislation, laid on the table.

A division vote was requested.

Yeas: 7 - Nays: 16

Motion to table fails.

SENATOR J. KING: I would just like to comment upon the amendment. We just passed the original bill, unanimously. Now we are amending that bill with this amendment here that throws that bill completely out and puts this in. What is in that bill that they don't want? That is what you should ask yourselves. What is in that bill that you don't want?

SENATOR PIGNATELLI: I think what we are doing is really dishonest here. Really dishonest. I think we just did the right thing by voting for SCR 21 with the amendment and we all understood what we did. We all voted for the paragraph to encourage Congress to pass campaign finance reform this year and to do it now. By voting for this floor amendment, we are saying, well we really didn't mean it. We meant that we would like them to think about it. Maybe in another ten years when something comes before Congress again, maybe then we will be ready to do something about it. But by voting 24 to 0 and supporting campaign finance reform now, we did the right thing. By voting for this amendment, we are not doing the right thing. We are doing something that is going to make us feel good. We are operating with an axe rather than with a laser. This was laser, this 24 to 0 vote. This would encourage Congress to do something right now. Congress does what it wants anyway. They're not going to do what we want them to do. This is a vote, Congressman Bass, for you and your colleagues, and your colleagues in the Senate, to get busy and we want what is on the floor or substantially similar to what is on the floor of the House and the Senate to pass this year. We don't want to wait another ten years.

Recess.

Out of recess.

SENATOR PIGNATELLI: I would like to amend SCR 21 with amendment #4847L. It is printed in the calendar on page six.

SENATOR DELAHUNTY (In the Chair): Senator, is the amendment that you are proposing printed in the calendar?

SENATOR PIGNATELLI: Yes it is.

SENATOR DELAHUNTY (In the Chair): Senator Pignatelli, that was the original amendment. I understand the game that you are playing. That was the original amendment that we voted on and that has been adopted. So that is already there. Now what is your question?

SENATOR PIGNATELLI: I was wondering if we could amend the amended version that we are voting on now, the floor amendment version.

SENATOR DELAHUNTY (In the Chair): You can present another amendment and we will take a vote on it and the answer will be yes or no. If you would like to present the amendment, we will take it now. We will take a voice vote and we will get it over with.

SENATOR PIGNATELLI: I withdraw my request.

Ordered to third reading.

Senators Gordon, Rubens and Russman in opposition to floor amendment on SCR 21.

MOTION OF RECONSIDERATION

Senator J. King moved reconsideration on **SCR 21**, urging the President of the United States and Congress to establish an independent commission to advise Congress on campaign finance reform legislation.

Motion of reconsideration fails.**TAKEN OFF THE TABLE**

Senator Danais moved to have **SB 513**, an act requiring attorneys to be bonded through the New Hampshire Bar Association, taken off the table.

Adopted.**SB 513, an act requiring attorneys to be bonded through the New Hampshire Bar Association.**

Senator Danais offered a floor amendment.

4892L

Floor Amendment to SB 513

Amend the bill by deleting section 4 and renumbering the original sections 5 through 9 to read as 4 through 8, respectively.

SENATOR DANAIS: If everyone would look at their Senate Calendar on page three, the bottom paragraph where it says "311:7 Prohibition." This amended bill was supposed to go to a study committee to review the effects and the rationale of bonding, but, unfortunately, this paragraph remained inside of the amended bill, which means that even during a study committee, if you are a person who has been appointed a practicing attorney in the court, the person has been admitted by the court, taken the oath prescribed by RSA 311:6 and obtained a surety bond that is required under RSA, which is the original bill, which means that even during the study committee, he would have to obtain a bond. That was not the intent of the committee to do this. The intent was to go to a study commit-

tee and study the ramifications and the effects of the bond; therefore, my floor amendment reads, "Amend the bill by deleting section 4 and renumbering the original sections 5 through 9 to read as 4 through 8, respectively." The outcome will be to eliminate that paragraph.

Floor amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Stawasz moved to have **SB 569-FN**, an act reducing the number of liquor commissioners from 3 to one, taken off the table.

Adopted.

SB 569-FN, an act reducing the number of liquor commissioners from 3 to one.

SENATOR STAWASZ: Mr. President, the committee found this bill inexpedient to legislate. There was very little testimony in support of changing the liquor commission.

Question is on the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

Senator Larsen is in opposition to the motion of inexpedient to legislate on SB 569.

TAKEN OFF THE TABLE

Senator Colantuono moved to have **SB 585-FN-A**, an act imposing a tax on big game hunting preserve property, taken off the table.

Adopted.

SB 585-FN-A, an act imposing a tax on big game hunting preserve property.

SENATOR DANAIS: The committee voted that this bill was designed for one purpose only, one specific piece of property. The committee felt that it was inexpedient to legislate.

Question is on the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HOUSE MESSAGE

The House of Representatives is ready to meet with the honorable Senate in Joint Convention for the purpose of attending to the remarks of presidential candidate Robert Dole.

Recess for Joint Convention.

Out of recess.

SENATOR LOVEJOY: I just wanted to tell you that I have known about Senator Dole from this leadership. I knew he was a hero, because I read about him in the war. I knew he was a leader, because I have watched his career in Washington. I knew that he was able because I watched the fruits of that leadership. It was so interesting to listen to him today. Since I joined the Dole team, I have learned some other things about the Senator. I have learned that he is a compassionate man. I have learned that he is meticulously honest. I have learned that he is a man who is values oriented and I want to tell you that I stand here proud that I am a Dole supporter in this campaign. I would like you to join with me, certainly, but I want to tell you, Senator, that until today I didn't know you were a comedian. Your speech was well received and we were extremely interested. If you would like to say a few words to us, we would love to listen.

SENATOR DOLE: I want to say thank you very much. I never had the privilege of serving in the state Senate. I served in the state House of Representatives in Kansas, but I did work closely with the state Senate. Of course I have been in the House and the Senate in Congress. I really believe that we have an opportunity as legislators. I know that sometimes people take us to task. There are a lot of cynics out there. Whether we are Democrats or Republicans, everybody is in there to make a difference and we all maybe have different views on different issues, but I think that most people try to do the right thing and want to do the right thing. Most American people want us to do the right thing. If it is a matter of philosophical differences, obviously we can't get together or if it is some moral issue we can't come together on, but I think that people want us to get our work done and they expect us to do what we have taken an oath to do. So I am very honored just to come by and say hello. It has been a good day for us yesterday. Politics aside, it is just good to be here and good to see some fellow legislators. I can tell you that you're safe right now. Congress is in recess until the 26th. No more mandates or anything else coming down for a while. The 26th, isn't it Charlie? Yeah. Then we will be back to work. We haven't given up on a balanced budget. Again, regardless of party, right now Republicans and Democrats in the Congress are working together to try to come together on a balanced budget. That means so much to the American people. I think we ought to try to get it done and not wait until after the election this year. Mr. President, George and all of you others, I appreciate this opportunity. Thank you very much.

SENATOR LOVEJOY: I would like also to recognize a real fine lady, a lady who has exemplified leadership in the country and who has always been out in front, always a person who's been respected for her ability to make decisions concerning this country. It is a great pleasure for me to ask you to welcome with me Mrs. Dole.

Recess.

Senator Stawasz in the Chair.

TAKEN OFF THE TABLE

Senator Barnes moved to have **SCR 20**, demanding that the federal government cease enacting mandates that are beyond the scope of the 10th Amendment to the United States Constitution, taken off the table.

Adopted.

SCR 20, demanding that the federal government cease enacting mandates that are beyond the scope of the 10th Amendment to the United States Constitution.

SENATOR LOVEJOY: We had a history lesson today and it was a valuable one. That valuable history lesson was the New Hampshire delegation's efforts in 1788 that brought our tenth amendment to the Constitution. Mandates have always been a sore spot. I was fortunate to have been able to sponsor what is now 28-a that eliminates state mandates to the local communities. It is important that the federal government recognize the state's rights and reaffirm New Hampshire's position and that is what SCR 20 does. I ask that you support it. I think this is a fine day to do it when we had that history lesson from Senator Dole.

Adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Wheeler.

Seconded by Senator Barnes.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Pignatelli, Colantuono, Larsen, Podles, Barnes, J. King, Russman, Danaïs, Shaheen, Delahunty, Keough, Cohen.

The following Senators voted No:

Yeas: 23 - Nays: 0

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Fraser moved to have **SB 625**, an act relative to insurance fraud, taken off the table.

Adopted.

SB 625, an act relative to insurance fraud.

SENATOR FRASER: Mr. President, this bill is intended to help the insurance department to crack down on fraud. Section 25 of the bill changes the wording "purposefully" to "knowingly and with intent" which brings the language into context with other theft and criminal act language in the statute. Section 1 of the bill deals with the clarification of evidence collection, inspection, recording and information disclosures in fraud cases. Mr. President, this bill was introduced by Senator Rodeschin on behalf of the Insurance Committee. The bill is a model coming out of the National Association of Insurance Commissioners which was subsequently embraced by the National Conference of Insurance Legislators. Senator Fraser offered a floor amendment.

4894L

Floor Amendment to SB 625

Amend the bill by replacing section 1 with the following:

1 New Sections; Insurance Fraud Investigator. Amend RSA 417 by inserting after section 25 the following new sections:

417:26 Evidence Collection. If, by its own inquiries or as a result of complaints, the insurance department has any reason to believe that a person has engaged in, or is engaging in, any insurance fraud or has violated any provision of RSA 638:20, it may administer oaths, serve subpoenas ordering the attendance of witnesses or production of material, and collect evidence.

417:27 Inspection. If material that the unit seeks to obtain by request is located outside the state, the person so requested may make such material available for examination by the unit or its representative at the place where it is located. The unit may designate representatives, including officials of the state in which the material is located, to inspect the material on its behalf, and it may respond to similar requests from officials of other states.

417:28 Reporting of Fraudulent Claims by Insurers. Any company which believes that an insurance fraud has been committed shall, within 60 days of the forming such belief, send to the unit, on a form prescribed by the unit, the information requested and such additional information relative to the claim and other parties claiming loss or damage because of the claim as the unit may require. The unit shall review such report and select such claims as, in its judgment, warrant further investigation.

417:29 Fraud Unit Material Information Disclosure. The unit's papers, documents, reports, or evidence relative to the subject of investigation

under this section shall remain confidential and shall not be subject to public inspection or disclosure. Further, such papers, documents, reports or evidence relative to the subject of an investigation under this section shall be privileged and shall not be subject to subpoena, discovery or disclosure in any proceeding other than the action initiated by the unit. For the purposes of this section investigative materials shall include the testimony of unit personnel concerning any matter of which they have knowledge pursuant to a pending insurance fraud investigation by the unit.

Amend the bill by replacing section 26 with the following:

26 Effective Date. This act shall take effect January 1, 1997.

SENATOR FRASER: Mr. President, I now move that we adopt the content of Floor Amendment 4894. I will explain what that amendment does. In the amended version of SB 625, under 417:29, Fraud Unit Material Information Disclosure, the third sentence says that "shall not be subject to public inspection or disclosure." We are recommending that we remove "unless and until the subject is prosecuted pursuant to such an investigation." Then it follows "Further, such papers, documents, reports or evidence relative to the subject of an investigation under this section shall be privileged and shall not be subject to subpoena, discovery or disclosure . . ." In other words, anything to do with making those records public after the process has been adjudicated, where I am recommending that we adopt the amendment so that those records will never become public records.

Floor amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Cohen moved to have **HB 301**, an act prohibiting certain evidence in sexual assault cases, taken off the table.

Adopted.

HB 301, an act prohibiting certain evidence in sexual assault cases.

SENATOR LOVEJOY: I think that it is time that we pass this important bill, Mr. President. It's an important bill to our state. **TAPE INAUDIBLE.**

Question is on the committee amendment.

Amendment adopted.

Recess.

Out of recess.

Senator Cohen offered a floor amendment.

4885L

Floor Amendment to HB 301

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect 60 days after its passage.

SENATOR COHEN: The county attorney said that he was recently in New York City and walked by a window at Tiffany's on fifth avenue. He said that there was a beautiful display of jewelry and glass. "It is unbelievably ostentatious," he said. Suggesting that a woman by dressing, consents to be raped is like saying that Tiffany's has consented to being robbed. It makes no sense. This bill is extremely important because it precludes defense attorneys from making the irrelevant argument that

one consents to sex by manner of dress. If we vote all together, unanimously, on this, we will tell the citizens of this state that the manner of dress does not imply consent and that no means no and that we will be saying yes to more effective criminal prosecutions. I urge support for this bill as amended.

Floor amendment adopted.

Ordered to third reading.

Senator Lovejoy is in favor of both amendments on HB 301.

Senator Wheeler is in favor of the committee amendment on HB 301.

Recess.

Senator Delahunty in the Chair.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourned until Thursday, February 15, 1996, at 10:00 a.m.

Adopted.

ANNOUNCEMENTS

LATE SESSION

Third Reading and Final Passage

SB 513, establishing a study committee on bonding or other alternatives to protect client trust funds held by attorneys.

SB 535, an act relative to automobile insurance.

SB 551, an act establishing a committee to review state-funded health care insurance.

SB 595, an act relative to licensed insurance agents under workers' compensation.

SB 625, an act relative to insurance fraud.

SB 659, an act allowing self-employed persons or business owners who have paid into the unemployment compensation fund to collect benefits.

SCR 20, demanding that the federal government cease enacting mandates that are beyond the scope of the 10th Amendment to the United States Constitution.

SCR 21, urging the President of the United States and Congress to establish an independent commission to advise Congress on campaign finance reform legislation.

HB 301, an act prohibiting certain evidence in sexual assault cases.

Senator J. King moved that the business of the day being completed, that the Senate now adjourn until Thursday, February 15, 1996, at 10:00 a.m.

Adopted.

Adjournment.

February 15, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

May you function for us today with the dogged determination, tenacious perseverance, and ultimately, the realism of Phil Gramm. Just do it using your own accent.

Lord, of everyone here, make these, our leaders, men and women with a breadth of vision that enables them to see the seeds of wisdom even in their opponents' opinions; and give them the depth of humility that allows them to acknowledge the possible incompleteness of some convictions they hold most dear. Amen

Senator Rodeschin led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

SB 528, an act making certain changes in the law regarding trustees of estates. Banks Committee. Vote: 4-0. Ought to pass with amendment. Senator Fraser for the committee.

4896L

Amendment to SB 528

Amend the bill by replacing all after the enacting clause with the following:

1 Compensation of Trustees. Amend RSA 564:21 to read as follows:

564:21 Compensation. A trustee shall be allowed [his] reasonable expenses incurred in the execution of [his] *the* trust; and unless otherwise expressly provided in the trust instrument, [he] *the trustee* shall have such reasonable compensation for services as the judge may allow. *In the case of any corporate trustee, the probate court recognizes a rebuttable presumption that reasonable compensation for the trustee's services shall be defined by that institution's published inter vivos fee schedule, in effect at the time services are rendered. In the case of any non-corporate trustee, the probate court recognizes a rebuttable presumption that reasonable compensation for the trustee's services shall be in such amount as is customarily paid to professional trustees in the marketplace. Corporate trustees shall submit an affidavit to the probate court reciting their inter vivos fees schedule in effect at the time services were rendered and a certification that the beneficiaries were notified of that fee schedule. Preparation of any trustee account or appearance at probate court, if required, shall not be an additional charge.* Unless otherwise expressly provided in the trust instrument, such compensation and expenses may be apportioned between principal and income as the judge may determine equitable; but in the case of trusts held exclusively for charitable purposes the compensation shall be payable out of income only, unless otherwise provided in the trust instrument or where the judge determines that certain unusual and non-recurring services and expenses such as the distribution of principal are involved that should be charged to the corpus.

2 Powers of Trustees. Amend RSA 564-A:3, III(e) to read as follows:

(e) to invest and reinvest trust assets in accordance with the provisions of the trust or as provided by law, *including, but not limited*

to, funds combined for investment purposes operated by the trustee or any affiliate thereof and any mutual fund for which the trustee or affiliate thereof acts as a sponsor, underwriter, distributor, investment manager, custodian, shareholder, servicing agent, or in any other capacity;

3 New Section; Homestead Rights. Amend RSA 564-A by inserting after section 7 the following new section:

564-A:7-a Homestead Rights. A conveyance of real property, by deed executed on or after the effective date of this section, to one or more trustees of a revocable trust shall not result in the loss of homestead rights of any person executing the deed (unless the deed contains an express release of homestead rights by such person); provided, that such retained homestead rights in any such property shall not be enforceable against any other person to the extent such other person acquired an interest in or lien on the property after its conveyance into the trust without having notice of the revocability of the trust. Such notice may be given by the inclusion of the word "revocable" in the name of the trust as recited in the deed, or by the recitation in the deed or a subsequently recorded document that at the time of the conveyance the trust was a revocable trust.

4 Effective Date. This act shall take effect 30 days after its passage.

SENATOR FRASER: Mr. President, SB 528 modifies the law regarding Uniform Trustees' Powers Act. Compensation of trustees for testamentary trusts have been governed by a fee schedule that has not changed since 1981. Fees for probate trustees are far behind compensation for living trusts by as much as 40 to 60 percent. As such, qualified corporate trustees have avoided appointment by the probate courts of these trusts. This bill will allow a fee schedule that adequately compensates trustees for their professional services. The vote of the committee was unanimous, Mr. President. It has been supported by the probate court system and we urge its adoption by the full Senate.

Amendment adopted.

Ordered to third reading.

SB 540-FN, an act modifying the definition of a qualified investment company. Banks Committee. Vote: 4-0. Ought to pass with amendment. Senator Shaheen for the committee.

4834L

Amendment to SB 540-FN

Amend the bill by replacing all after section 6 with the following:

7 Contingency. Sections 1 and 2 of this act shall not take effect until July 1, 1996, at the earliest and unless and until the United States Congress enacts section 3(c)(7) of the Investment Company Act of 1940.

8 Effective Date.

I. Sections 1 and 2 of this act shall take effect as provided in section 7 of this act.

II. The remainder of this act shall take effect July 1, 1996.

SENATOR SHAHEEN: The Banks Committee recommends passage of SB 540, as amended. The amendment was requested by the Department of Revenue Administration. The bill will allow New Hampshire-based investment bank trustees to take advantage of changes proposed in the federal law dealing with investment trusts. The law in Delaware is already set up to allow bank trustees located in that state to take advan-

tage of those changes. This would allow New Hampshire to be competitive in that market. So I would urge my colleagues to support the ought to pass motion.

Amendment adopted.

Ordered to third reading.

SB 508-A, an act making a capital appropriation for an architectural update study for the Glenclyff home for the elderly and making an appropriation therefor. Capital Budget Committee. Vote: 5-0. Inexpedient to legislate. Senator Gordon for the committee.

SENATOR GORDON: This bill proposes appropriating the amount of \$50,000 for an architectural update for improvements for the Glenclyff home for the elderly. Since the bill was proposed, the Department of Health and Human Services has, in its own budget, made an allocation so that it could do the updated study itself. This bill is no longer necessary. The committee recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 536-LOCAL, an act prohibiting public employers and public employee organizations for educational institutions from offering or providing information to students relative to any labor matter between the employer and the employee organization. Education Committee. Vote: 6-1. Ought to pass with amendment. Senator Stawasz for the committee.

4931L

Amendment to SB 536-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

prohibiting public employees of educational institutions from utilizing students as couriers relative to any labor matter in dispute between the employer and the employee organization.

Amend the bill by replacing section 1 with the following:

1 New Section; Educational Institutions; Unfair Labor Practices. Amend RSA 273-A by inserting after section 5 the following new section: 273-A:5-a Educational Institutions; Unfair Labor Practices Prohibited. It shall be a prohibited practice for a public employee of an educational institution to utilize students of the educational institution as couriers to transport any written material which advocates a particular position in any collective bargaining agreement negotiation, settlement of grievances, or any other labor matter in dispute between the public employer and a public employee or public employee organization.

AMENDED ANALYSIS

This bill prohibits public employees of educational institutions from utilizing students as couriers relative to collective bargaining agreement negotiations, settlement of grievances, or any other disputed matter related to labor, between the public employer and the public employee organization.

Recess.

Senator Wheeler in the Chair.

SENATOR STAWASZ: This bill is intended to eliminate the practice of teachers sending literature home with students concerning labor disputes. The committee felt that the language of the original bill was too

broad and instead recommended the amendment that you see in the calendar. The amended version prohibits a public employee of an educational institution from using students as couriers for material advocating a particular position concerning collective bargaining, settlement of agreements or other labor matters, in a dispute between those public employees and their employer. The committee's concern is that children could be used in these situations in manners which would not benefit their education. The classroom should be a place of teaching and learning and not a place to seek an advantage in a labor dispute. It allows for notices to be sent home for parent/teacher meetings, school board meetings, etc., things of an informational nature. The committee recommends the bill as ought to pass, as amended, 6 to 1.

Amendment adopted.

Ordered to third reading.

SB 598-LOCAL, an act providing that special education state aid follows the pupil, and authorizing the commissioner of revenue administration to determine state and local per capita income. Education Committee. Vote: 7-0. Ought to pass with amendment. Senator Gordon for the committee.

4916L

Amendment to SB 598-LOCAL

Amend the bill by replacing the title with the following:

AN ACT
providing that special education state
aid follows the pupil.

Amend the bill by deleting section 5 and renumbering the original section 6 to read as 5.

AMENDED ANALYSIS

Section 2 of this bill provides that state aid for special education shall follow the pupil if the pupil transfers to another school district during the school year.

The remainder of this bill amends certain RSA provisions making them gender neutral and consistent with other sections amended by the bill in accordance with RSA 17-A:6 relative to gender neutral drafting.

This bill is a request of the department of education.

SENATOR GORDON: This bill will help solve a problem caused when a special education student transfers from one school to another during the school year. Currently a school must pay three and one-half times the estimated cost per student, approximately \$18,000 for each special education student. When the cost to the school exceeds this figure, state catastrophic aid pays 80 percent of the excess, up to ten times the estimated cost per student and the school pays the other 20 percent. The state pays the entire amount when the cost exceeds ten times the estimated cost per student. A problem arises when a student moves from one school to another during the school year. Currently both schools are required to reach the three and one-half times threshold before state catastrophic aid is paid, no matter how much time a student spends at each school. This bill would allow the schools to be considered as one for the purposes of determining catastrophic aid, effectively prorating the amount the schools pay, depending on how many days the student attends each school. The money follows the student from one school to

another. This will save our school districts money. The amendment removes a section relating to calculating the foundation aid formula. This section would have based calculations on yearly Department of Revenue Administration figures for a town's per capita income and constant recalculation would make it difficult for school boards to plan budgets with the constant fluctuations. The committee recommends this bill as ought to pass as amended. Thank you, Mr. President.

Amendment adopted.

Ordered to third reading.

Recess.

Senator Larsen in the Chair.

SB 656-FN, an act expanding drug-free school zones to include Head Start facilities. Education Committee. Vote: 7-0. Ought to pass with amendment. Senator J. King for the committee.

4906L

Amendment to SB 656-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Definition of "School"; Head Start Facility Added. Amend RSA 193-B:1, III to read as follows:

III. "School" means any public or private elementary, secondary, or secondary vocational-technical school *or Head Start facility* in New Hampshire.

2 Head Start Facilities Exempt from Mapping Requirements. Amend RSA 193-B:3 to read as follows:

193-B:3 Maps of Drug-Free Zones; *Exemption*.

I. Each school administrative unit within the state shall, in consultation with the local police authority having jurisdiction over drug enforcement where each drug-free zone is located, publish a map clearly indicating the boundaries of each permanent drug-free school zone in accordance with the provisions of RSA 193-B:1, II. Such map shall be posted in a prominent place in the district or municipal court of jurisdiction, the local police department, and in all schools existing in the drug-free school zone.

II. The mapping requirements under paragraph I shall not apply to Head Start facilities.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill includes Head Start facilities in the definition of "school" for the purposes of drug-free school zones, and provides an exemption from the mapping requirements for Head Start facilities.

SENATOR J. KING: The Board of Facilities have been left out of the drug-free school zones program. The Head Start facilities are preschool facilities in or near public housing areas to assist less advantaged children. By including these facilities into the definition of school, under the drug-free school zone laws, the children would be offered the added protection that the penalty for possessing or dealing drugs in drug-free zones offers. These kids, who are already at risk, will be offered some reprieve from the proliferation of drugs on the street. The amendment exempts Head Start facilities from the requirement of having maps of the drug-free school zones prepared. The department conceded that the mapping

would be a major cost to this piece of legislation since they already have all of the necessary signs made. The committee recommends ought to pass with amendment. Thank you.

SENATOR COLANTUONO: Are other private preschool or kindergarten programs TAPE INAUDIBLE?

SENATOR J. KING: I don't know. Right now it is public schools that are TAPE INAUDIBLE This brings in the Head Start program.

Amendment adopted.

Ordered to third reading.

Recess.

Senator Pignatelli in the Chair.

CACR 37, Relating to: protecting the rights of parents to direct the upbringing and education of their children. Providing that: parents shall not be compelled to raise or educate their child in any manner to which they are conscientiously opposed. Education Committee. Vote: 5-2. Inexpedient to legislate. Senator Larsen for the committee.

SENATOR LARSEN: This constitutional amendment would have provided that parents shall not be compelled to raise or educate their children in a manner to which they are conscientiously opposed. The committee felt the language of the amendment was too broad and that as an amendment to the constitution was unnecessary. The committee recommends this bill as inexpedient to legislate, 4 to 2.

Committee report of inexpedient to legislate is adopted.

Senators Colantuono, Lovejoy and Wheeler in opposition to the motion of inexpedient to legislate on CACR 37.

Recess.

Senator Danaïs in the Chair.

SB 620-FN, an act postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years. Environment Committee. Vote: 6-0. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: SB 620 postpones the implementation of alternative fuel requirements for motor vehicle fleets for two years. The state of New Hampshire is not yet in a position to implement these requirements because the technology has not advanced as much as was anticipated. In addition, the federal administrative rules governing this program are still in development. To date, nothing has been finalized. Postponing this program for two years would allow for these rules to be completed and, hopefully, give the alternative fuel technology a chance to develop. The Environment Committee unanimously recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 637, an act requiring the commissioner of the department of environmental services to study and recommend statutory changes establishing a fabric care environmental response program. Environment Committee. Vote: 6-0. Ought to pass with amendment. Senator Cohen for the committee.

4911L

Amendment to SB 637

Amend the bill by replacing section 1 with the following:

1 Fabric Care Environmental Response Program Study. The commissioner of the department of environmental services shall study and recommend statutory changes establishing a fabric care environmental response program.

SENATOR COHEN: SB 637 is the first step in correcting environmental problems created by the dry cleaning industry. Specifically, the bill now requires that the DES study these issues and recommend to the legislature the best means of taking care of these contaminated sites. The dry cleaning industry clearly recognizes the need to clean up these sites. Industry representatives suggested that as much as 90 percent of the state's dry cleaning businesses have some degree of contamination. The question now being addressed is how should the clean up be financed in a way that will keep older small businesses from going bankrupt, yet provide fairness and equity to newer businesses that have not contributed to these problems. So we have amended it and it is anticipated that DES, with their knowledge and expertise, will examine these issues in a more thorough fashion than a legislative study committee could do. The Environment Committee recommends this bill as ought to pass as amended.

SENATOR CURRIER: Senator Cohen, is there a possibility that this study committee could recommend that there be established a similar fund like the oil fund for the clean up of these sites; therefore have a surcharge on your dry cleaning to cover the clean up?

SENATOR COHEN: Well, that was one thing that was discussed in the committee and there was some disagreement as to whether or not that was fair to put the burden on others that hadn't contributed to the problem. So, hopefully, the DES will look at that and come up with a solution as to how to finance it. That was a specific problem that we were concerned about.

Amendment adopted.

Ordered to third reading.

Recess.

Senator Keough in the Chair.

SB 641, an act establishing a committee to investigate the contract between Wheelabrator Concord, LP, and the New Hampshire/Vermont solid waste project. Environment Committee. Vote: 5-1. Inexpedient to legislate. Senator Russman for the committee.

SENATOR RUSSMAN: The committee felt strongly that this was not an area that the state legislature should try to get involved with, that is, investigating whether or not the contract made between the Vermont and New Hampshire solid waste district and Wheelabrator technology is in the best interest of that area. There already has been a study committee which I served on previously involved with that and we felt that this was a matter of local control and what the local people should deal with in terms of resolving those issues and tipping fees are coming down, somewhat, to a renegotiation of the contract and we felt that it was best to have the bill inexpedient to legislate because of that.

Committee report of inexpedient to legislate is adopted.

HB 275, encouraging businesses to conduct environmental self-audits. Environment Committee. Vote: 5-0. Ought to pass. Senator Pignatelli for the committee.

SENATOR PIGNATELLI: Mr. President and members of the Senate, this is a re-referred bill from last session. This measure would encourage New Hampshire businesses to voluntarily review their operations for compliance with environmental regulations. It would do so by insuring that the results of such internal audits remain company confidential with the appropriate exceptions and would not be used in a self-incriminating fashion against a company. It was unanimous in committee and we urge your passage of this bill.

Adopted.

Ordered to third reading.

SB 621-FN-LOCAL, an act regulating the use of heating, agitating, and other devices in public waters. Fish and Game/Recreation Committee. Vote: 5-1. Ought to pass with amendment. Senator Roberge for the committee.

4944L

Amendment to SB 621-FN-LOCAL

Amend RSA 270:34, I-II as inserted by section 1 of the bill by replacing it with the following:

I. No person shall put, place, operate, or cause to be put, placed or operated in the public waters of this state any so-called heating, agitating or other device which inhibits or prevents the natural freezing of water, or forming of ice without first obtaining a registration from the municipal clerk of the town in which the device shall be operated. All registrations shall expire on June 30, 3 years following the date of issuance.

II. A separate registration shall be required for:

- (a) Each body of water in which a registrant places such devices.
- (b) Each town in which a device shall be placed.

SENATOR ROBERGE: Mr. President and members of the Senate, SB 621 deals with a problem of recent vintage in New Hampshire. Agitating and heating devices are being used to prevent ice formation. This bill would require that these devices be registered so that the Fish and Game Department can monitor these devices. A registrant will be required to have a registration for each body of water in which they intend to place such a device.

Amendment adopted.

Ordered to third reading.

SB 597-FN, an act relative to disability retirement benefits. Insurance Committee. Vote: 7-0. Ought to pass. Senator J. King for the committee.

SENATOR J. KING: This bill enables the board of trustees to waive the requirement that a member has to be in service to apply for ordinary and accidental disability retirement benefits. The problem that exists is that a person may be ill and not expect the illness to be lengthy. If the illness persists and the person is out for thirty days, they are automatically removed from the membership in the system, and then they are not able to apply for the benefits. This bill allows the board of trustees to waive the requirement of being in service so that the members of the system are not denied benefits that they are entitled to. Thank you.

Adopted.

Ordered to third reading.

Recess.

Senator Johnson in the Chair.

SB 591, an act relative to the appointment of guardians for incapacitated persons and confidential communications. Public Institutions, Health and Human Services Committee. Vote: 5-0. Inexpedient to legislate. Senator Podles for the committee.

SENATOR PODLES: Mr. President, SB 591 will broaden the exemption for patient/doctor communications at hearings where the patient is to be determined incapacitated and whether a ward is necessary. The medical provider would give first-hand testimony as to why the patient isn't being kept incapacitated and for what reason. As this bill is written, this exemption would be broad. The privilege could be waived at any time during any hearing. This is too expansive for a provision that was established to be protective so the committee recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 529, an act limiting railroad liability for passenger trains. Transportation Committee. Vote: 4-0. Ought to pass with amendment. Senator F. King for the committee.

4935L

Amendment to SB 529

Amend the bill by replacing section 6 with the following:

6 New Subdivision; Railroad Liability for Passenger Rail Service Limited. Amend RSA 377 by inserting after section 22 the following new subdivision:

Liability

377:22 Passenger Rail Service.

I. For purposes of this section:

(a) "Railroad" means any person, railroad corporation, or other legal entity in the business of providing interstate, commuter passenger rail service pursuant to an agreement with this or any other state, or with any official agency or authority of this or any other state.

(b) "Passenger rail service" means all services or acts performed by a railroad in connection with the transportation of rail passengers including, but not limited to, the operation of trains, trackage and equipment, or the construction, reconstruction or maintenance of railroad equipment, tracks and any appurtenant facilities, or the provision of trackage rights over lines owned by any such railroad.

II.(a) No railroad shall be liable in excess of \$75,000,000 annually in the aggregate for any and all claims for property damage, personal injury, bodily injury, or death arising out of such passenger rail service; provided, however, that the sponsor of such passenger rail service shall have first secured and maintained a railroad protective liability insurance policy covering the liability of the sponsor and the railroad for such claims.

(b) The insurance policy under subparagraph (a) shall:

(1) Name the sponsor as the named insured and the railroad as an additional named insured.

(2) Have policy limits of not less than \$75,000,000 annually in the aggregate.

(3) Be subject to a self-insured retention of not more than \$7,500,000.

AMENDED ANALYSIS

Sections 1 and 6 of this bill limit railroad liability to \$75,000,000 for any and all claims arising out of passenger rail service, and sets forth certain criteria regarding liability insurance coverage.

The remainder of this bill amends certain RSA provisions making them gender neutral and consistent with other sections amended by the bill in accordance with RSA 17-A:6 relative to gender neutral drafting.

SENATOR F. KING: SB 529 is a necessary measure which will help secure private sector interest in using the revitalized passenger railroad system between Boston and Portland. Massachusetts has already passed legislation establishing a limited liability and Maine currently has a similar bill before its legislature. Both of those states use the \$75 million limit referenced in SB 529. The \$75 million liability cap represents the highest allowable cap which would still allow potential users to purchase liability insurance at an affordable rate. The amendment makes the liability cap at \$75 million aggregate, annually. The original bill had this figure as a lifetime cap. The amendment also offers this liability only to railroad companies that have insurance coverage up to \$7.5 million. The Transportation Committee recommends this bill as ought to pass as amended. The amendment is on page 6 of the calendar.

Amendment adopted.

Ordered to third reading.

Senator Currier in opposition to SB 529.

Recess.

Senator Rubens in the Chair.

SB 609-FN, an act requiring the division of motor vehicles to report those in default of more than \$100 to a consumer reporting agency. Transportation Committee. Vote: 5-0. Inexpedient to legislate. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, although the Transportation Committee TAPE CHANGE commensurate with the expense associated with implementing the program. In addition, the Department of Safety indicated that this information is currently available to the various credit agencies under the Right-To-Know Law. However, these agencies presently do not make use of it. Finally, the House recently sent HB 1587, relative to collection of outstanding default money owed to the state, to interim study. The subject matter addressed in SB 609 is likely to be reviewed in that study. The Transportation Committee was unanimous in recommending that this bill be reported out as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

Recess.

Senator Delahunty in the Chair.

SB 506, an act establishing a commission on environmental programs. Environment Committee. Split Report: Ought to pass. Senator Pignatelli for the committee. Vote: 3-3. Split Report: Inexpedient to legislate. Senator F. King for the committee. Vote: 3-3.

SENATOR F. KING: SB 506 creates a commission. It does not appear to be necessary at this time, because it is not apparent if the proposed environmental cuts will ever become effective. When these cuts are made,

then we can introduce similar legislation next year which will create this commission. I just don't understand why we should create something that may or may not be necessary at this point. In addition, many of the groups that would have been appointed to this commission already meet on a fairly regular basis to review federal environmental programs and are able to respond to their concerns. To that degree SB 506 is redundant and unnecessary. We recommend the bill as inexpedient to legislate.

SENATOR PIGNATELLI: Well, as you may know, I disagree with Senator Fred King. A wise scientist once said, "For every problem, there is a simple, elegant and easy solution and it is almost always wrong." By not doing anything, we are trying to avoid a problem and not agree that there is a problem and not even recognizing that we have problems. Like it or not, the federal budget is going to be reduced and I, for one, think it ought to be reduced in certain areas. One of the areas that it is going to be reduced in, whether we like it or not, is environment and environmental protection. It is only by gathering quality information that we hope to craft meaningful solutions that protect biodiversity while avoiding future conflicts. In this era when it seems to be a given that much responsibility for environmental protection and investment will devolve onto the states, the commission will put New Hampshire in a better position to evaluate possible responses. The commission can serve as an early warning system, alert to the changes coming out of Washington and able to recommend legislation and programs in response. The commission can serve as an important vehicle for educating the public about the role environmental protection plays in our society, from direct economic impacts to indirect esthetic social quality of life consequences. The commission could become a comprehensive state repository for environmental and economic data that now resides in many disparate locations, which makes it difficult, currently, to know the full consequences of contemplated reductions in federal environmental spending. The commission provides an opportunity for comprehensive overview of the intimate relationship between a robust economy and a robust environment. New Hampshire needs to know the value of a sound and healthy environment to a sustaining and productive economy. There is a strong correlation between a well-functioning environment and a well-functioning economy. We need to know the costs to our economy and our quality of life of reductions in environmental spending at all levels. As a side note, I might point out that it has been said that this is a partisan bill. I would point out that at least five of the sponsors are Republicans and five are Democrats. I think it's something that its time has come and I think that it can serve a valuable purpose for the state of New Hampshire. I urge you to pass this bill. Thank you very much.

SENATOR STAWASZ: Senator Pignatelli, as much as I appreciate the environment, it will be one of many things in Washington that we cut expenditures on. That brings me to a cost benefit question, that is one of the reasons that Washington is looking closely at the many areas. What is the cost benefit of what the government spends on finding out this information and what is the benefit to the taxpayers whose money they use to find out? I see this bill as being prepared well in advance of anything happening. The amount of tourism this state gets, I think, speaks well to our environmental stewardship. It seems to me that this commission would have some input of the policy of our environmental matters. Is that correct?

SENATOR PIGNATELLI: It could be.

SENATOR STAWASZ: Is there a method here for the commission to input policy by its existence?

SENATOR PIGNATELLI: If you mean that the commission could, through the membership of its two Senate members and its two House members, introduce legislation, I suppose that is a possibility, if they deem that that would be appropriate for our state. Contrary to what you were saying about whether cuts are already happening, I want to read some possible consequences about HR 961, which has already passed the U.S. House and is waiting in the Senate. "It increases allowable toxic water discharges and relaxes coastal sewage dumping rules. It provides loopholes for oil and gas, pulp and paper, mining and other big polluters. It delays agri-business cleanup, pesticide, fertilizer, parasite-laden runoff by fifteen years or more. It weakens standards for toxins disposed via public sewers, increasing plant worker health risk, water quality impact and local ratepayer costs." In addition to that, it does a number of things in terms of defunding the Environmental Protection Agency. These are things that are already being talked about in the House of Representatives. They have already passed one body. I think it is important for New Hampshire to know how these are going to impact New Hampshire and to make some decisions in a proactive way rather than a reactive way for our state.

SENATOR STAWASZ: Other than having great faith in our congressional delegation both in the House and in the Senate to act in New Hampshire's best interests, do you feel that this commission, being created in this way, somehow tries to get around the joint legislative rule of having only legislative members on committees which are going to have an input into policy?

SENATOR PIGNATELLI: This is a commission, Senator Stawasz. It is not a committee.

SENATOR F. KING: Senator Pignatelli, do you feel, given your great concern about what's happening in Washington, it might also be appropriate for this legislature to have a commission to study the impact of cuts in Medicaid, another commission to study the cuts in Medicare, another commission to study the cuts in educational funding? Should we have a commission set up like this to study all the potential cuts in the budget, or just this commission?

SENATOR PIGNATELLI: Well, I am talking about only this one issue now. This is what I have been focusing a lot of my time and energy on since I joined the Senate and the Environment Committee three years ago and became increasingly concerned about what I saw happening on the federal level and how those impacts would affect New Hampshire. So this is what I am interested in right now. You know, at some future time, I may be willing to discuss forming a commission with you about those other subjects.

SENATOR F. KING: I asked you what you thought about supporting those others?

SENATOR PIGNATELLI: I think that it is important to look at all things that are going to have an effect on New Hampshire, but right now, I am interested in this.

SENATOR F. KING: Thank you.

SENATOR COLANTUONO: Senator King, as part of the deliberations of the three who voted inexpedient on this bill, did you consider the fact

that we have employees, we have a commissioner of DES and employees and a whole staff there and part of their job is to continually monitor federal legislation and make determinations how it would impact on the state of New Hampshire, communicate with the governor's office and then propose legislation as need might be? In other words, this bill would be a duplication of efforts that we are already paying people here to do.

SENATOR F. KING: I think we discussed that and I think further than that we discussed there are some very excellent organizations in the state that are privately funded, businesses that pay close attention to these issues. They certainly are very well organized. They speak with one voice on these issues, so I think that the concerns of the citizens of the state are adequately being sent to Washington and I think that to anticipate something is going to happen and spend the summer talking about that, not even knowing what is going to happen, is just a waste of time. I think this is a commission whose time just hasn't come. I just think that occasionally there comes a bill before this body that ought to be voted down, and I think this is one of them.

SENATOR SHAHEEN: Senator King, does the Department of Environmental Services take a position on this legislation?

SENATOR F. KING: They submitted a letter and I recall the deputy commissioner saying that he thought the issue of a long term commission was not appropriate at this time, but he thinks that these issues are important.

SENATOR SHAHEEN: So did they actually say they opposed the bill?

SENATOR F. KING: They did not say that they opposed it, no.

SENATOR SHAHEEN: Did anyone appear in opposition to the legislation?

SENATOR F. KING: Not that I recall. I think at the executive session we had, it was well discussed and obviously there is a difference of opinion. I guess everyone here is going to have to make a decision.

SENATOR PIGNATELLI: Are you aware, Senator King, that we have in our possession, a letter from Dana Bisbee from the Department of Environmental Services where he writes, "I write in support of SB 506, a bill which would establish a commission to review the effect on New Hampshire budget reductions and federal environmental programs.

SENATOR F. KING: Could you read the last sentence?

SENATOR PIGNATELLI: Now particularly is the time when we should be focusing our attention on the debate and actions taking place in Washington. Thank you for considering our views. Please call on us if we can be of any further assistance."

SENATOR F. KING: Could you read the last part . . .

SENATOR PIGNATELLI: "Our support, however, is tempered with questions on whether such a formal permanent commission is necessary and whether the time frame of review should be more immediate." So obviously, they feel that we need to have a more immediate review and that its time has certainly come. Thank you.

SENATOR CURRIER: I rise in opposition to the pending motion of ought to pass. I serve as chairman of a commission that was established two years ago to study the reorganization of state government. This legislature at that particular time thought that, just like some of you do today,

it was a great idea. However, you didn't give us any money to do the job, and we have been floundering around for the last six months, trying to figure out ways to actually accomplish the task that was placed upon us. There is a piece of legislation that is coming across from the House at cross-over that is going to allow the commission to do some outside, private sector fund-raising to help us with the task of restructuring the state government. I am opposed to this bill because there is no money attached to it and, to me, this commission and other commissions of this type are not going to accomplish a damn thing without financial resources to do the job.

SENATOR RUSSMAN: I am not sure how briefly it will be, Mr. President, but I do want to speak and to say a number of things. Number one, I have an amendment, assuming the ought to pass motion carries, that is to sunset this in three years to address the issue raised by the Department of Environmental Services and I frankly agree with that, that there is no need for a long term review. But in the first instance, I think this is an opportunity for us, as a bipartisan legislature or Senate, to go on record in favor of the environment, not just for us, but for these school children up here in the gallery, that we are concerned about our environment here in New Hampshire and nationally. Last summer I got together with a group of Republicans, elected officials and business people and formed New Hampshire Republicans For Responsible Conservation. We were concerned about what was happening in Congress and how that may affect us here in New Hampshire. We tried to get in touch and talk to some of the presidential candidates to let them talk about this as a particular issue. We had a forum – well, we didn't – but the New Hampshire Wildlife Federation in conjunction with the Business and Industry Association, the Vermont Round Table and a number of other business and civic groups, had a forum in January and invited all of the major candidates. Well Mr. Dornan came, and also Mr. Keyes came, but no one else. But to his credit, our governor came. Governor Steve Merrill came and he praised the idea of what was going on there, to have a forum on the environment. He said that there should be no disagreement on clean air and clean water. Well, I'll tell you, this is not a partisan issue. Five Democrats and five Republicans signed onto this legislation. We have enjoyed twenty-five years of advancement, in terms of environmental protection in this country. Our lakes in New Hampshire happen to be 90 percent swimmable and fishable because of what has gone on in Washington. Nationally, 60 percent are. As I believe the chairman of Finance indicated earlier, our Department of Environmental Services, almost 80 percent of their positions count on federal funding. So what happens in Washington does affect us greatly here in New Hampshire. I think that clearly a vote here today for this amendment and for this bill puts you on record that you are in favor of the environment. The commission that is set is nicely balanced and certainly ought to bring it to our attention, concerns that may be raised about what is happening in Washington that may somehow affect our state. I think it is absolutely unbelievable that there would be any question as to whether or not, when it comes to our environment here in New Hampshire, that we are going to be proactive and we are not going to be reactive and we are not going to wait until things have happened and then say, "Gee, now what should we do?" We ought to say, "Let's stay ahead of the curve instead of behind the curve." So I urge you to support both the bill and the amendment.

SENATOR F. KING: I gather from your statement that you feel that people who may vote against this legislation are against the environment. Is that your inference?

SENATOR RUSSMAN: I am not inferring that, but certainly a vote against this bill is certainly going to raise the question to other people. I suspect that whether or where they stand on the environment in terms of whether New Hampshire should take a look at what Congress is doing to our environmental laws and how it is going to affect us as far as the Department of Environmental Services and all of the different federal programs that have been turned over to the state, Superfund, for example, in its present form, nationally is an abomination for New Hampshire. We are going to be limited to 100 sites nationally. State laws are going to be preempted. Those things affect us profoundly and may affect our budget. We get stuck cleaning up Superfund sites in this state because of the lack of federal funding to go forward and clean those up.

SENATOR F. KING: The legislation you speak about is still being developed. Is that right?

SENATOR RUSSMAN: This is true.

SENATOR F. KING: I guess I'd ask you, do you think that the way to deal with our Congressional delegation as they go about making a decision in Washington is to have a commission on welfare, a commission on Medicare, a commission on . . . or is this the only commission you're interested in?

SENATOR RUSSMAN: We had a commission, well not a commission, but a committee on health care and Medicare and Medicaid in years past. We've had committees that have actually looked into those and studied those in terms of what the ramifications were. HB 32 was one of those that we just voted in this last fall that did away with some of that. But we have had in the past, clearly, committees on all of those things that you speak of.

SENATOR F. KING: Did that impact on the federal legislation?

SENATOR RUSSMAN: Absolutely.

SENATOR F. KING: How did HB 32 influence Washington?

SENATOR RUSSMAN: I am sorry. I thought you said, was it impacted by federal legislation. Did it impact on federal legislation? I don't know if it did. I didn't serve on those committees. Whether or not they contacted our delegation at times, I don't know.

SENATOR F. KING: Do you think we should now form a commission? I am just trying to find out if the issue is having commissions to send our message to Washington or using a more traditional way of doing it is more appropriate. I guess I'm trying to find out if you are interested in other commissions or think only this subject is worthy of study. Education, Medicare, Medicaid, should we have a commission to do that, too?

SENATOR RUSSMAN: There may be a need for that, I don't know. I haven't looked at those issues. I don't serve on those committees, but I can tell you that on this issue there certainly is a need for it.

SENATOR STAWASZ: Given the private group that you mentioned, Senator Russman, and the governor's praise of that effort, and the fact that this bill takes absolutely no position on an environmental issue but merely seeks to establish a commission to see what other folks, that we talk to anyway, what they are up to, would you feel that we need to spend any of our limited public resources on this commission as opposed, let's say, to kindergarten?

SENATOR RUSSMAN: Well, I think you know the answer to that question, but I'd be happy to tell you what I think. The environment in New

Hampshire is important. It is important to the voters of New Hampshire. It's important to our school children. It's important to our families and I think to say that we shouldn't have a commission to stay ahead of the curve is putting our heads into the sand.

Senator Blaisdell moved the question.

Adopted.

Question is on the motion of ought to pass.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Larsen.

The following Senators voted Yes: Gordon, Fraser, Rubens, Blaisdell, Pignatelli, Larsen, J. King, Russman, Shaheen, Keough, Cohen.

The following Senators voted No: F. King, Johnson, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Barnes, Danais.

Yeas: 11 - Nays: 12

The motion of ought to pass fails.

Question is on the motion of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 505, an act prohibiting bear and deer baiting for hunting purposes. Fish and Game/Recreation Committee. Vote: 4-3. Inexpedient to legislate. Senator Rodeschin for the committee.

SENATOR RODESCHIN: I will try not to be too bearish on this one. This bill came out of committee on a very close vote of 4 to 3 for inexpedient to legislate. There were many issues presented at the hearing, but in the end, the majority of the committee felt that if bear baiting were a problem, the Fish and Game Commission would take the steps necessary to stop the practice. Fish and Game testified in opposition to this bill. As recently as this past bear season, the Fish and Game Commission cut the bear hunting season short because of the number of bears taken. They are the agency closest to the issue and they have shown they are willing to act if required. This process is not used by many hunters; in fact, only seventy-two of the over four hundred bears taken were taken by baiting. As such, the majority of the committee voted inexpedient to legislate.

SENATOR WHEELER: Senator Rodeschin, in committee, didn't we hear testimony that taking bear over bait was a preferred method of bear hunting because the hunters can get close enough to the bear to determine the sex of the bear that they wanted to take, and that actually when the bear were taken over bait by the actual count of the bear taken, 74 percent of the bear were males, thus leaving the females to propagate the herd?

SENATOR RODESCHIN: That is correct.

SENATOR WHEELER: Thank you, Senator.

SENATOR COHEN: As was said, this is a very close vote. And as Senator Rodeschin said, this sport is not used by many hunters because it is not sportsmanlike. It is important that we preserve hunting as a sport and it is important that we preserve sportsmanship in hunting. This, shooting bear over bait, is very different. This is not sportsmanship. I read from an article in February 4th's Sunday News from John

Harrigan, the Woods and Water and Wildlife writer. He said, "It is one thing to shoot a bear you just happen to encounter. It is quite another to sit in a tree and kill a bear that you have lured in with bait. To many people, it comes across as akin to shooting a rat at a the dump. The ultimate trashing of an animal we profess to revere." It says "most people equate bear hunting with using dogs and shooting them over bait and I just don't think that is right. It is different from hunting. There is no sportsmanship here. What happens is that you put out the bait for a number of days. You wait for the bear to come. In fact, it is so simple, for the so-called hunter, that there are trip wires that are set out, so that the so-called hunter knows exactly when the bear is coming. All that the hunter has to do is to sit there and wait for the bear to come because they know what time the bear will arrive. That is not sportsmanlike. It was testified in committee that this may be a useful management tool if there is an overpopulation problem. No speaker, not one, said that there is a bear overpopulation problem. There simply is no overpopulation problem. It was also suggested, inaccurately, that this allows the hunters to be selective. Fifty percent of the bears that were killed, not 25 percent, but 50 percent, according to our testimony, were female. It is 50/50. It does not allow them to be selective. It can be selective, but there are cubs shot as well. We had photographs of bear cubs that had been killed by these so-called hunters over bait. It is not selective and the biggest problem, and Fish and Game admitted there is a problem, is with something called habituation. Bears are naturally timid animals. But they get habituated to coming near people because of bait. They think that people mean food and a bear's life is about getting food. So they get used to people. That is a dangerous situation for bears to think that people will provide . . . TAPE CHANGE . . . so-called hunters. They now have to be advised how not to attract bears, how to keep bears away because the bears have been so habituated to coming to the bait, they look to humans for their food and that is all that they do is look for food. It is not sportsmanlike. They are looking to humans as a food source. It isn't necessary to control the overpopulation of bears, because there is no overpopulation of bears. The increase in sightings that we have seen is due to the drought. There was a drought last summer. It was harder for the bears to find food, so they came closer to people where they knew there would be food. That is why there were more sightings. There is nothing that we can do about a drought situation. If I may quote a bit from the Wall Street Journal Article of December 15, 1995, "Bears do not overpopulate regions where there is no baiting. Witness the stable bear populations in national parks where all hunting is outlawed." So where all hunting is outlawed, there is still no bear overpopulation. The chief problem with fair chase bear hunting, which is what we people who support sportsmanlike hunting recognize, a fair chase, is that it is difficult. It is more difficult to hunt bear. It is very, very easy to sit in a tree and wait for the bear to come at the time that you know the bear is going to come. There was testimony before our committee that the black bear could well be endangered within just five years. We have values. We talk about values these days in New Hampshire, in the presidential debate. We have made animal cruelty illegal. It is illegal in the state of New Hampshire, RSA 644:8. There was an article by — some of you may have seen it last Friday night, I believe it was Channel 11 — Richard Lessner, the new editor of the Union Leader who rarely agrees with me, okay, to put it mildly. I was a little upset last week when he misspelled my first name. It was critical, however, on Friday night's show, he commended my efforts for this. He said,

on this television show "that he has been a sportsmen all of his life and feels that baiting bears is not sporting. It is not hunting." I have an editorial in the Union Leader – that liberal newspaper – and he was new at the time, maybe didn't know my name here, but this is an editorial from November 8, 1995. "Anyone who shoots big game over bait is undeserved of the honored designation 'sportsman.'" This is the Union Leader talking. "All those who employ dogs to run game animals, to ground or tree only to dispatch them at leisure like toy ducks at the carnival shooting gallery are little better. Let us be clear about this, we have nothing against hunting, either for meat or sport. It is an essential element in modern game management. Hunting isn't necessary to find food. It has become a sport. Without stalking, there is no hunt. Only lazy hunters set out bait or shoot over salt licks and grain stations. It is a butcher's work. Wherein lies the skill to shoot a treed bear? The use of bait and drugs are inappropriate hunting methods which the true sportsman will eschew." There is, if we overturn this inexpedient, an amendment which will allow disabled, paraplegics, people who do not have use of both lower extremities, to still be able to use baiting. We have amended it so that people can still put out food to attract bear and deer just because they want to attract bear and deer because they want to feed them. So I would urge my colleagues to vote against inexpedient to legislate and then we can pass it with an amendment.

SENATOR F. KING: I don't hunt bear, so this is not a particular problem for me, but I like to hunt ducks. There are two traditional ways of hunting ducks, you can go to the marsh and jump them up and shoot them. Then there is the way that I am accustomed to and that is to hunt them out of a blind, without decoys, enticing them into the range. Given your philosophy, do I have to be concerned about you wanting to outlaw that type of baiting of shooting these ducks, these ducks that I lure in sight and range? Do I have to worry about that?

SENATOR COHEN: Are you baiting? I understand that you are not baiting them.

SENATOR F. KING: I am not baiting you, I am asking you a question.

SENATOR COHEN: No. Very good. You are not baiting the ducks. You are luring the ducks and there is a difference.

SENATOR F. KING: Well, we sow some wild rice, you know. A few wild oats, too.

SENATOR COHEN: As you know, this doesn't deal with ducks.

SENATOR F. KING: I understand that. My concern is that do I have to worry about that?

SENATOR COHEN: No, you don't have to worry about that at all. This is a totally separate issue. We are talking about bear.

SENATOR STAWASZ: I hope that Senator Cohen won't duck this issue, although it may be somewhat corny. I have a lot of farmers in my district; they have fields of corn and one of the primary purposes of allowing bear baiting is to prevent the damage that a rampaging bear does to those crops. When the bears do that, Senator Cohen, do you realize that a farmer can't feed his family? That he has a serious problem? Also, I know you had concerns on other bear issues and I wanted to make sure you saw this ad today about where does Bill Clinton stand on fur? And he stands right on this poor – is that a bear that he is standing on? Well I can't tell, but . . .

SENATOR COHEN: In answer to your question. That is what this amendment deals with, that the farmers could still be able to put the food out elsewhere, but not shoot the bear. They still have that management tool to get the bear elsewhere. That will take care of the farmer's problem.

SENATOR BARNES: Senator Cohen, Section 1 talks about baiting the wild black bear and deer. It's prohibited. Would you be agreeable to an amendment on there that there is one wild black bear that we should bait, especially in Durham? I do it every time that I go over there and the Black Bears of Orono are in Durham. I think that we should not prohibit baiting of that bear in Durham from the University of Maine.

SENATOR COHEN: I would support that amendment.

SENATOR DANAIS: Senator Cohen, during your testimony you mentioned one thing that I disagree with and I just want to clarify the record. You said that in baiting, 50 percent or 52 percent, I think is the number that was used, were males. Is it not true that during testimony it was stated that bear baiting as compared to wild game, not using bear baiting, let us put it that way, that during bear baiting, 74 percent of the kill are males as compared to in the wild without baiting, 52 percent?

SENATOR COHEN: It was around 50 percent. I didn't hear 52 percent. But we heard conflicting testimony on that.

SENATOR DANAIS: Is it not true that there was testimony stating that in bear baiting, 74 percent of the kill are males?

SENATOR COHEN: And there was also contrary testimony. That was not the only testimony. I heard that figure and there were other figures as well.

SENATOR LOVEJOY: Senator Cohen, just to straighten my mind out, if a hunter wants to bait bear, what is the process? Does he have to get a permit?

SENATOR COHEN: Yes.

SENATOR LOVEJOY: Who issues the permit?

SENATOR COHEN: Fish and Game.

SENATOR LOVEJOY: Fish and Game then makes the judgment whether that permit should be issued?

SENATOR COHEN: That is correct. But we, as you know, have legislative authority over Fish and Game.

SENATOR LOVEJOY: Is it true that all hunters, from your testimony it seemed, that we are permitting the situation where hunters can go out and bait bear and shoot them when they come in to get the bait?

SENATOR COHEN: Yes.

SENATOR LOVEJOY: But that is not so, is it?

SENATOR COHEN: No, it is so.

SENATOR LOVEJOY: No, it is so?

SENATOR COHEN: Yes, it is, absolutely, Senator.

SENATOR LOVEJOY: I don't understand that.

SENATOR COHEN: I am sorry that you don't understand.

SENATOR LOVEJOY: Well, I don't understand if it is no or yes.

SENATOR COHEN: Baiting does happen, if that is what you are asking. It does happen. They put it out there, then they wait and they shoot the bear.

SENATOR LOVEJOY: Do they need special permission?

SENATOR COHEN: Yes.

SENATOR LOVEJOY: They have to fill in a form?

SENATOR COHEN: Yes.

SENATOR LOVEJOY: And then Fish and Game makes a judgment?

SENATOR COHEN: Yes. And we have legislative authority over Fish and Game, as you know, Senator.

SENATOR LOVEJOY: Thank you.

SENATOR WHEELER: Senator Cohen, as you know, when bears are taken in hunting, they have to be tagged and brought to the checking station for the biologist to examine. In the testimony from Director DiStefano he said, "males are much more likely to be taken using this technique than with other hunting methods. Over the last four years, for example, 70 percent of the bears taken over bait have been males." Now what I want to know is, when the biologists check these animals do you think that they don't know the difference?

SENATOR COHEN: Of course they know the difference. Females and cubs are still being baited, shot and killed, which is not sportsmanlike.

SENATOR WHEELER: Since these animals are all checked by Fish and Game, how can you say that there is other evidence to say that it is a 50/50 split between male and female?

SENATOR COHEN: There was other testimony in the hearing saying that there was a 50/50 split. Maybe it was just this year that it was 74 percent, but oftentimes it is a different percentage. It's still a high percentage of females and cubs.

SENATOR WHEELER: Senator Cohen, you lead people to believe that all they have to do is climb a tree one day and shoot the bear, but the statistics given to us by the Fish and Game Commissioner say that of 447 bear baiting permits, 114 were taken over bait. Now that is about a 25 percent kill rate so, obviously, you are going to have to sit in a tree, trip wire or no trip wire, for almost four years before you are going to get a bear. Would you agree?

SENATOR COHEN: No.

SENATOR BLAISDELL: Mr. President and members of the Senate, thank you very much. I rise in support of Senator Rodeschin's motion of inexpedient to legislate. I want you to know that I am not an expert on bear. The only bear that I ever met was a guy name Bear Bryant, who was the coach of Alabama, about twenty-five years ago. That is the closest that I have ever come to a bear and the closest that I ever want to come to a bear. If anybody wants to tell me that . . . well let's put it this way, you haven't mentioned in here anything about deer baiting, too. That is on that bill and I think I am a little bit more upset about that than anything else. You know, you've seen people on television push these racks together to attract the deer. That's like telling me that I can't put cologne on to attract Sheila, you know, or something like that, or my wife, Peggy, let's put it that way. It hasn't worked yet and we have been here how long, fourteen years? I am not a woman killer. I want to be serious.

I know that this is a very serious thing and I don't want to treat it any other way. I have been here for many years and I have always taken the Fish and Game Department's word, because we pay those people well and we talk to them about the problems. I don't know anything about that. So I take the Fish and Game's people's word. This is what they think is right. If they think it's wrong . . . Senator Lovejoy brought it up that you have to have a permit and if somebody is doing it wrong then certainly they can control it. I leave it in the Fish and Game's hands because I think that's where it belongs. Thank you.

SENATOR ROBERGE: Mr. President and members of the Senate, there was some misunderstanding going around that I wasn't aware of dealing with this issue having to do with bear baiting only being allowed . . . TAPE INAUDIBLE . . . and I want to dispel that one thing. I could apply for a baiting permit, but I first have to have a hunting license. Then I could get a permit to hunt and tag, and then tag the bear. Then I would have to let Fish and Game know exactly where I was planning on putting the bait. But this is all that you need and anyone can get one. That is how much it's regulated and that doesn't sound like much of a hardship to me. Senator Cohen covered about everything that I would say and I would agree with him, this is not a sport. Thank you.

Senator Barnes moved the question.

Adopted.

Question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator Wheeler.

Seconded by Senator Roberge.

The following Senators voted Yes: F. King, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Blaisdell, Wheeler, Colantuono.

The following Senators voted No: Gordon, Johnson, Roberge, Stawasz, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, Keough, Cohen.

Paired votes: Senators Danais and Shaheen.

Yeas: 9 - Nays: 12

The motion of inexpedient to legislate fails.

SUBSTITUTE MOTION

Senator Cohen moved to **substitute ought to pass for inexpedient to legislate.**

A roll call was requested by Senator Stawasz.

Seconded by Senator Colantuono.

The following Senators voted Yes: Gordon, Johnson, Roberge, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, Shaheen, Keough, Cohen.

The following Senators voted No: F. King, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Blaisdell, Wheeler, Stawasz, Colantuono.

Yeas: 12 - Nays: 10

The motion of ought to pass is adopted.

Recess.

Out of recess.

Senator Cohen offered a floor amendment.

4966L

Floor Amendment to SB 505

Amend the title of the bill by replacing it with the following:

AN ACT
prohibiting the taking of bear and
deer from a baited area.

Amend the bill by replacing sections 1 and 2 with the following:

1 New Section; Taking of Wild Black Bear and Deer From Baited Area Prohibited. Amend RSA 208 by inserting after section 22 the following new section:

208:22-a Taking of Wild Black Bear and Deer From Baited Area Prohibited.

I. Notwithstanding any law to the contrary, no person shall take bear or deer from a baited area, except that this paragraph shall not apply to a disabled person who is suffering from paraplegia or who is suffering from the loss of, or the loss of the use of, both lower extremities.

II. Dogs shall not be trained or used for taking bear from baited areas.

III. Any person who violates this section shall be guilty of a violation.

2 New Paragraph; Manner of Hunting Deer; Taking From Baited Area Prohibited. Amend RSA 208:7 by inserting after paragraph I the following new paragraph:

I-a. No person shall knowingly take deer from a baited area, except that this paragraph shall not apply to a disabled person who is suffering from paraplegia or who is suffering from the loss of, or the loss of use of, both lower extremities.

Amend the bill by replacing section 4 with the following:

4 Reference Removed. Amend RSA 208:22, IX(a) to read as follows:

IX.(a) Whoever violates the provisions of [paragraphs] *paragraph* I, II, [III, and] *or* VI shall, if a natural person, be guilty of a violation, and any other person shall be guilty of a misdemeanor, except that any person who exceeds the bag limit as determined pursuant to RSA 208:22, I shall be guilty of a misdemeanor.

AMENDED ANALYSIS

This bill prohibits taking of bear and deer from baited areas, except by certain disabled persons.

SENATOR COHEN: Yes, I have an amendment that would just straighten some language up. It was suggested by people who have worked with Fish and Game very thoroughly, just to define . . . I believe that you all have copies of the amendment. It just cleans up Roman I. It just makes it more clarified. Also it adds that disabled people who are suffering from paraplegia or loss of use of both lower extremities would be able to do this baiting, but otherwise, they would not be able to bait. It just cleans it up a little bit and allows disabled people to bait.

SENATOR BLAISDELL: Senator Cohen, when I was in the sporting goods business, we used to sell this musk stuff that attracted deer, and I don't mean musk cologne. It is the regular musk. Is it prohibited to put that on?

SENATOR COHEN: Absolutely not. I am very glad that you asked that question, because the definition of baiting is baiting for the purpose of

luring or attracting. They are two separate things. There is baiting and there is luring and attracting. What you are talking about is luring and attracting, which is not illegal under this provision.

SENATOR BLAISDELL: You are talking about a disabled person, so you mean that they would be taking a disabled person and putting them in a tree?

SENATOR COHEN: No.

SENATOR BLAISDELL: Where is the disabled person going to go?

SENATOR COHEN: Wherever they want to.

SENATOR BLAISDELL: Boy, if I was a disabled person . . .

Recess.

Out of recess.

Floor amendment is adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Currier.

Seconded by Senator Pignatelli.

The following Senators voted Yes: Gordon, Johnson, Roberge, Pignatelli, Larsen, Barnes, J. King, Russman, Shaheen, Keough, Cohen.

The following Senators voted No: F. King, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Blaisdell, Wheeler, Stawasz, Colantuono, Podles, Danais.

Yeas: 11 - Nays: 12

Motion of ordering to third reading fails.

Senator Colantuono moved to have **SB 505**, an act prohibiting bear and deer baiting for hunting purposes, laid on the table.

Adopted.

LAID ON THE TABLE

SB 505, an act prohibiting bear and deer baiting for hunting purposes.

Senator Stawasz move to have **SB 505**, an act prohibiting bear and deer baiting for hunting purposes, taken off the table.

A division vote is requested.

Recess.

Out of recess.

Senator Stawasz withdrew his motion.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Wednesday, February 21, 1996, at 10:00 a.m.

Adopted.

**ANNOUNCEMENTS
LATE SESSION**

Third Reading and Final Passage

SB 528, an act making certain changes in the law regarding trustees of estates.

SB 529, an act limiting railroad liability for passenger trains.

SB 536-LOCAL, prohibiting public employees of educational institutions from utilizing students as couriers relative to any labor matter in dispute between the employer and the employee organization.

SB 540-FN, an act modifying the definition of a qualified investment company.

SB 597-FN, an act relative to disability retirement benefits.

SB 598-LOCAL, providing that special education state aid follows the pupil.

SB 620-FN, an act postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years.

SB 621-FN-LOCAL, an act regulating the use of heating, agitating, and other devices in public waters.

SB 637, an act requiring the commissioner of the department of environmental services to study and recommend statutory changes establishing a fabric care environmental response program.

SB 656-FN, an act expanding drug-free school zones to include Head Start facilities.

HB 275, encouraging businesses to conduct environmental self-audits.

Senator J. King moved that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Wednesday, February 21, 1996 at 10:00 a.m.

Adopted.

Adjournment.

February 21, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

Good morning, my friends. In the Christian tradition, today is Ash Wednesday and it is not a very popular day. That is because this day reminds us of a couple of things we don't like remembering. First, that our lives have an end. In other words, our terms are limited. Second, that it will be someone else who is going to complete what we start, not us. And third, that our real value as people does not lie in what we accomplish, but in simply who we are. We may not like remembering those things, but accepting them will make me a better person and you a better senator.

Lord of primaries, polls, politicians and pundits, help each one here to serve, to consider, to decide and to vote in such ways this day, that when You read the returns of their lives this evening, they may be considered winners in Your sights.

Amen

Senator Larsen led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

SB 527, an act establishing a committee to study methods of promoting competition among water utilities. Executive Departments and Administration Committee. Vote: 4-0. Ought to pass. Senator Colantuono for the committee.

SENATOR COLANTUONO: This is a simple bill that establishes a six person study committee to study the ways to promote competition among water utilities, similar to what we are doing in the electric industry and what we have already done in the telephone industry. The committee voted unanimously ought to pass.

Adopted.

Ordered to third reading.

SB 534, an act requiring candidates to report when either receipts or expenditures exceed a certain amount. Executive Departments and Administration Committee. Vote: 4-0. Ought to pass. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bipartisan bill closes a loophole in our election reporting laws. Right now you only have to report if your expenditures exceed \$500. You can have unlimited receipts and no one would know about it. This bill makes it clear that you have to make reports if your receipts or expenditures exceed \$500.

Recess.

Out of recess.

Senator Larsen moved to have **SB 534**, an act requiring candidates to report when either receipts or expenditures exceed a certain amount, laid on the table.

Adopted.

LAID ON THE TABLE

SB 534, an act requiring candidates to report when either receipts or expenditures exceed a certain amount.

SB 537, an act relative to state contracts for consultants. Executive Departments and Administration Committee. Vote: 4-0. Ought to pass with amendment. Senator Rodeschin for the committee.

4683L

Amendment to SB 537

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; State Contracts for Consultants. Amend RSA 21-I by inserting after section 22-b the following new subdivision:

State Contracts for Consultants

21-I:22-c State Contracts for Consultants and Consulting Services. Notwithstanding the provisions of RSA 21-I:18, every request for consulting services by the state or by a state agency as defined in RSA 21-I:11, I(b), including those agencies referenced in RSA 21-I:18, which would cost more than \$35,000 shall contain the particular requirements of the project contemplated in a statement of work to be accomplished. Each statement of work to be accomplished shall be written using objective project standards and shall not contain criteria that are consultant spe-

cific. Every request for consulting services which would cost more than \$35,000 shall be written to encourage participation by various suppliers. If there are particular requirements that will receive more weight in the review of the submission, these must be so stated.

21-I:22-d Awards. Notwithstanding the provisions of RSA 21-I:18, awards which are made by any branch of state government or by a state agency as defined in RSA 21-I:11, I(b), including those agencies referenced in RSA 21-I:18, under this subdivision shall not be based on criteria that are unknown to the parties submitting responses or proposals. Nothing in this subdivision shall prevent the state or a state agency as defined in RSA 21-I:11, I(b), including those agencies referenced in RSA 21-I:18, from making judgments on the capabilities of consultants to complete the work requested if this option is clearly stated in the body of the document and, if used as the reason for the award, is so stated.

2 Effective Date. This act shall take effect 60 days after its passage.

SENATOR RODESCHIN: The committee voted ought to pass with amendment. This is very similar to the bill that we passed last year on state contracts. This now includes consultants and the amendment now includes UNH. The committee would respect your ought to pass as amended vote.

Amendment adopted.

Ordered to third reading.

SB 564, an act relative to reporting by political committees and candidates. Executive Departments and Administration Committee. Vote: 4-0. Inexpedient to legislate. Senator Stawasz for the committee.

SENATOR STAWASZ: This bill would have lowered the amount as a threshold for reporting of political committees from \$500 to \$250. Just given the cost of current postage, the committee felt that the bill was unnecessary and we recommend inexpedient to legislate.

SENATOR COHEN: I would urge this body to vote against the inexpedient motion, the simple reason being that if the election of 1994 said anything at all, it was about bringing government closer to the people. This bill brings government closer to the people. The people want accountability. Right now a \$500 level is too high. We can certainly make it \$250 to keep what is going on behind the scenes more open to the public. This will have an effect of reassuring our constituents' support for and trust in the government processes. I would urge a vote of no on the inexpedient to legislate motion and then ought to pass after that.

A division vote was requested.

Yeas: 15 - Nays: 7

Committee report of inexpedient to legislate is adopted.

SB 575, an act relative to reporting requirements for candidates for local offices. Executive Departments and Administration Committee. Vote: 4-0. Inexpedient to legislate. Senator Keough for the committee.

SENATOR KEOUGH: SB 575 would require the same kind of financial reporting for seekers of local office that we all have to comply with. It was the sense of the committee that this, in fact, might be a very good idea, given that many local races are attracting more money than they used to in the past. The reason that the committee recommends this inexpedient to legislate is that it was pointed out at the hearing that en-

abling legislation already exists at the state level for local municipalities and towns to adopt ordinances requiring reporting on local races; and, in fact, many have. It was the hope of the committee that the Municipal Association would certainly encourage those who haven't, to do that. That seems to make more sense, given that the reporting would be handled locally and would be done at the town clerk's office, as opposed to what is provided for in this bill, which would provide for reporting to the secretary of state.

SENATOR RUBENS: Would that include school district races? TAPE INAUDIBLE

SENATOR KEOUGH: Yes. My understanding is that it would, any local governing body.

SENATOR ROBERGE: My understanding is that only charter TAPE INAUDIBLE.

SENATOR KEOUGH: I think that it might very well be considered a mandate if we were to force communities to adopt local reporting requirements to local town clerks. It was not the understanding of the committee that these ordinances were an option for only some communities. If, in fact, that is the case, I think that the committee might very well take a different view of this and want to consider it further. If we knew that was the case, I would support that this be recommitted to committee for further study so that we could answer that.

SENATOR ROBERGE: Mr. President, I am under the impression that the committee was given this information and that the secretary of state would be in a better position to provide the solution to these requirements.

Senator Roberge moved to recommit.

Adopted.

SB 575 is recommitted to the Executive Departments and Administration Committee.

SB 541-FN-A, an act exempting the healthy kids corporation from the insurance premium tax. Insurance Committee. Vote: 6-0. Ought to pass. Senator Shaheen for the committee.

SENATOR SHAHEEN: The Healthy Kids Corporation was created in 1993 with some funding by the state to provide insurance for children who are in working families who are not covered either by Medicaid or by insurance. What we did last year when we extended the premium tax was to tax the Healthy Kids Corporation which will be passed along to those low income working families and will provide an added burden to them in terms of being able to pay for insurance for their children. What SB 541 would do is exempt the Healthy Kids Corporation from having to pay the premium tax. It was passed unanimously in committee and I would urge the Senate to support the ought to pass motion.

Adopted.

Ordered to third reading.

SB 550, an act allowing a certain town employee to buy back time in the New Hampshire retirement system. Insurance Committee. Vote: 6-0. Ought to pass. Senator Shaheen for the committee.

SENATOR SHAHEEN: This bill addresses the problem that a constituent of Senator Barnes who works in the town of Durham has with the

retirement system. The only way to fix it, in talking to the retirement system, is with a special piece of legislation. This woman was an employee of the fire department in Durham which used to be funded through the university. The town took over the fire department in 1987 and she got caught in that period of time when she was not eligible for retirement with the New Hampshire state system because she was actually an employee of UNH. Now all of the firemen are eligible for group II and they were automatically in group II when they became employed. As the secretary administrator for the fire department, she was not eligible. What this bill does is allow her to buy those two years of credit when she got stuck between being an employee of UNH and the employee of the town of Durham. Again, the Insurance Committee supported the bill unanimously and I would urge the Senate to support the ought to pass motion.

Adopted.

Ordered to third reading.

SB 552, an act relative to life, accident, and health insurance, nonprofit health service corporations, and health maintenance organizations. Insurance Committee. Vote: 6-0. Ought to pass with amendment. Senator F. King for the committee.

5029L

Amendment to SB 552

Amend the bill by replacing all after the enacting clause with the following:

1 Standardized Claim Forms for Health Insurance. RSA 400-A:15-a is repealed and reenacted to read as follows:

400-A:15-a Standardized Claim Forms for Health Insurance. All health insurers, health maintenance organizations, health service corporations, hospital service corporations, medical service corporations, preferred provider programs and third party administrators shall use "HCFA-1500" and "UB-92" forms for all paper and electronic submissions and shall not routinely require additional forms or information. When HCFA officially replaces the "HCFA-1500" or the "UB-92" form, the replacements shall be considered the official form under this section.

2 Credits for Assessments Paid. Amend RSA 408-B:13, I to read as follows:

I. A member insurer may offset against its tax liability under RSA 400-A any assessment described in RSA 408-B:9, II(b) for the life insurance and annuity **account, and for the health** account, for guaranteeing the performance of contractual obligations of an impaired or insolvent insurer in regard to disability income coverages only, to the extent of 20 percent of the amount of the assessment for each of the 5 calendar years following the year in which the assessment was paid. If a member insurer ceases doing business, all uncredited assessments described above may be credited against its tax liability under RSA 400-A for the year it ceases doing business.

3 New Section; Prohibited Provisions. Amend RSA 408 by inserting after section 16-b the following new section:

408:16-c Prohibited Provisions. No group life insurance policy or certificate shall contain any provision that reduces or denies any benefit otherwise payable because a pre-existing medical or health condition contributed to the death or disability of the insured. No group life insurance policy or certificate shall contain any provisions that exclude ben-

efits for specified illnesses or medical conditions of the insured or which impose additional waiting periods for pre-existing conditions or specified illnesses or medical conditions of the insured. An insurer may require that an insured be actively at work in order to be eligible for any benefits of the policy or certificate.

4 New Subparagraph; Payment of Claims. Amend RSA 415:18, I by inserting after subparagraph (s) the following new subparagraph:

(t) A provisions as follows: Payment of Claims. Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured. (The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

(1) If any indemnity of this policy or certificate shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$ (insert an amount which shall not exceed \$1,000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.

(2) Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy or certificate on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.)

5 Liability of Insurer for Benefits Because of Insured's Use of Intoxicating Liquor or Narcotics. Amend RSA 415:18, II to read as follows:

II. Any portion of any policy of group or blanket accident or health insurance affecting a resident of New Hampshire, whether such policy is delivered in this state or any other state, and any certificate under such policy, which purports, by reason of the circumstances under which a loss is incurred, to reduce any benefits promised thereunder to an amount less than that provided for the same loss occurring under ordinary circumstances, shall be printed, in such policy and in each certificate issued under such policy, in boldface type and with greater prominence than any other portion of the text of such policy or certificate, respectively; and all other exceptions of the policy shall be printed in the policy and in the certificate, with the same prominence as the benefits to which they apply. (If any such policy or certificate contains any provision which affects the liability of the insurer because of any violation of law by the insured during the term of the policy, it shall be in the following form: The insurer shall not be liable for death, injury incurred, or disease contracted, to which a contributing cause was the insured's commission of, or attempt to commit, a felony, or which occurs while the insured is engaged in an illegal occupation. If any such policy or certificate contains any provision which affects the liability of the insurer because of the insured's use of

intoxicating liquor or narcotics during the term of the policy, it shall be in the following form: The insurer shall not be liable for death, injury incurred or disease contracted while the insured is intoxicated or under the influence of narcotics unless administered on the advice of a physician.]

6 Newly Born Children of an Insured's Dependent. Amend RSA 415:22, I to read as follows:

I. All individual and group health insurance policies providing coverage on a provision of service or an expense incurred basis, and individual and group service or indemnity type contracts issued by any corporation governed by RSA 419 or RSA 420, shall also provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the insured or subscriber ***or a newly born child of a dependent child of the insured or subscriber*** from the moment of birth.

7 Coverage for Grandchildren. Amend RSA 415:22, III to read as follows:

III. If payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fee must be furnished to the insurer or nonprofit service or indemnity corporation within 31 days after the date of birth in order to have the coverage continue beyond such 31-day period. ***Unless the policy or contract specifically provides that grandchildren of the insured or subscriber are eligible for coverage, coverage for newly born children of a dependent child of the insured or subscriber shall not continue beyond the initial 31-day period following birth. Nor shall such newly born children be considered dependents of the insured for any purpose addressed in this title.***

8 Health Service Corporations. Amend RSA 420-A:1, II to read as follows:

II. Every such corporation shall be governed by this chapter and shall be exempt from this title except for the provisions of RSA 400-A:39, RSA 415-A, RSA 415-F, RSA 415:18, VII(g), RSA 415:18, VII-a, ***RSA 415:22***, RSA 419, and RSA 420; provided, however, if any provisions of RSA 419 or 420 are inconsistent with this chapter, the provisions of this chapter shall prevail. Every such corporation and its agents shall be subject to the fees prescribed for hospital and medical service corporations under RSA 400-A:29, VII.

9 New Paragraphs; Continuing Coverage for Incapacitated Dependents; Double Indemnity under Non-Group Contracts; Health Maintenance Organizations. Amend RSA 420-B:8 by inserting after paragraph III-a the following new paragraphs:

III-b. Every health maintenance organization shall include in its forms of evidence of coverage a provision that the coverage of any dependent of a subscriber covered by the contract, who is mentally or physically incapable of earning his or her own living on the date as of which such dependent's status as a covered family member would otherwise expire because of age, shall continue under such contract while such contract remains in force or is replaced by another contract as long as such incapacity continues and as long as said dependent remains chiefly financially dependent on the subscriber or the employee or the subscriber's or employee's estate is chargeable for the care of the dependent, provided that due proof of such incapacity is received by the corporation within 31 days after such expiration date. If such coverage is

continued in accordance with this paragraph, such dependent shall be entitled upon the termination of such incapacity to a converted contract in accordance with and subject to the terms and conditions of the conversion privilege clause, if such privilege is afforded by the contract, provided that such dependent has not attained the limiting age, if any, for coverage of adults specified in the contract.

III-c. Non-group contracts issued by a health maintenance organization shall contain the following provision: Insurance with Other Insurers. If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or an expense incurred basis, payment shall not be prorated or reduced. In such a case, the insured shall be entitled to payment from both insurers. However, the provisions of this paragraph shall not prohibit the issuance of contracts including a "benefits deductible." The term "benefits deductible," as used in this paragraph means the term as defined in RSA 415:6, II(4).

10 Benefits for Mental and Nervous Conditions; Health Maintenance Organizations. Amend RSA 420-B:8-b, I(a) to read as follows:

I.(a) Benefits for mental or nervous conditions shall conform to the requirements of RSA 415:18-a[, III] or alternatively with the basic health services requirements of the Health Maintenance Organization Act of 1973 (P.L. 93-222), any amendments, and federal regulations issued under the authority of such federal law. However, where a health maintenance organization provides these alternative benefits, such benefits shall not be subject to any deductible. The coinsurance required by the enrolled participant shall not exceed 20 percent of the reasonable and customary charge for the services provided.

11 New Section; Newborn Children; Health Maintenance Organizations. Amend RSA 420-B by inserting after section 8-i the following new section: 420-B:8-i Newborn Children.

I. All individual and group health maintenance organization contracts shall provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the insured or subscriber or a dependent child of the insured or the subscriber from the moment of birth.

II. Coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

III. If payment of a specific premium or subscription fee is required to provide coverage for a child, the contract may require that notification of birth of a newly born child and payment of the required premium or fee must be furnished to the health maintenance organization within 31 days after the date of birth in order to have the coverage continue beyond such 31 day period. Unless the contract specifically provides that grandchildren of the insured or subscriber are eligible for coverage, coverage for newly born children of a dependent child of the insured or subscriber shall not continue beyond the initial 31-day period following birth. Nor shall such newly born children be considered dependents of the insured for any purpose addressed in this title.

IV. This section applies to all health maintenance organization contracts delivered or issued for delivery or renewed in this state on or after January 1, 1997.

12 Applicability to Health Maintenance Organizations. Amend RSA 420-B:20, III to read as follows:

III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 415:18, VII (g) [(1) through (4)], RSA 415:18, VII-a, RSA 415-A, and RSA 415-F shall apply to health maintenance organizations.

13 Definition; Utilization Review. Amend RSA 420-E:1, IV to read as follows:

IV. "Utilization review" means a system for reviewing the appropriate and efficient allocation of hospital, medical or other health care services given to a patient or group of patients as to necessity, for the purpose of recommending or determining whether such services should be covered or provided by an insurer, nonprofit service organization, **health maintenance organization**, third-party administrator or employer. The terms include those programs or processes whether they apply prospectively or retrospectively to medical services. Utilization review services include, but are not limited to, the following: second opinion programs; prehospital admission certification; preinpatient service eligibility certification; and concurrent hospital review to determine appropriate length of stay. Utilization review shall not include claims review or decisions.

14 Licensure or Registration of Utilization Review Providers. Amend RSA 420-E:2, I to read as follows:

I. Any person, partnership or corporation, other than an insurer, nonprofit service organization, health maintenance organization, preferred provider organization or an employee of those exempt organizations, that performs medical utilization review services on behalf of commercial insurers, nonprofit service organizations, **health maintenance organizations**, third-party administrators or employers, shall apply for a license to be issued by the department and shall pay an application fee and an annual license fee. No person, partnership or corporation, other than an [insured] **insurer**, nonprofit service organization, health maintenance organization or the employees of exempt organizations shall perform utilization review services or medical utilization review services unless the person, partnership or corporation has received a license in accordance with this chapter.

15 Repeal. The following are repealed:

I. RSA 419:5-b, relative to continuation of coverage for divorced or separated spouses by hospital service corporations.

II. RSA 420:5-c, relative to continuation of coverage for divorced or separated spouses by medical service corporations.

III. RSA 420-A:7-b, relative to continuation of coverage for divorced or separated spouses by health service corporations.

IV. RSA 420-B:8-a, relative to continuation of coverage for divorced or separated spouses by health maintenance organizations.

16 Effective Date. This act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill:

I. Clarifies coverage extended to a newborn child of an insured's dependent.

II. Clarifies coverage for incapacitated dependents whose status as a covered family member would otherwise expire because of age.

III. Clarifies certain other insurance provisions.

SENATOR F. KING: Mr. President, SB 552 is a request of the Insurance Department. It deals with a number of issues. This bill clarifies that insurance claim forms shall be standardized and designates which form will be used. The bill also prohibits clauses in policies that would reduce or deny coverage for pre-existing conditions. The bill further clarifies that if a policyholder has no beneficiary designated for life insurance, payment

will be made to the policyholder's estate. Another section of the bill provides that a dependent child of a policyholder shall have thirty-one days of coverage under the policy of the adult. There is a provision that continues coverage for incapacitated dependents beyond the normal date of cutoff for dependents. The committee amendment makes changes agreed to by the Insurance Department and the insurance industry. The committee also decided to amend the bill to remove the current statute regarding the insurer's ability to deny benefits to a policyholder or beneficiary if the injury or death occurred as a direct result of the use of alcohol, narcotics or happened during the commission of a felony. The committee doesn't feel that these circumstances should be promoted, but felt that there is too much risk of an innocent party being hurt by this provision.

Amendment adopted.

Ordered to third reading.

SB 590, an act relative to insurance coverage for early intervention services. Insurance Committee. Vote: 6-0. Ought to pass with amendment. Senator Fraser for the committee.

5024L

Amendment to SB 590

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a committee to study the feasibility of requiring insurers to cover early intervention services.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee which shall study the feasibility of requiring insurers to cover early intervention services. The committee shall be comprised as follows:

I. Three senators, 2 of whom are members of the insurance committee, all appointed by the senate president.

II. Three representatives, one of whom shall be a member of the commerce, small business, consumer affairs, and economic development committee and one of whom shall be a member of the health, human services and elderly affairs committee, all appointed by the speaker of the house of representatives.

2 Duties. All appointments to the committee shall be made within 30 days of the effective date of this act. The first meeting shall be held at the call of the first-named senator. At the first meeting the members shall elect a chairperson, and all subsequent meetings shall be at the call of the chairperson. Four members shall constitute a quorum.

3 Compensation and Mileage. The committee members shall not be compensated for their services, but shall receive mileage at the legislative rate when attending to the business of the committee.

4 Report. The committee shall report its findings and any recommendations for legislation to the senate president, speaker of the house, governor, senate clerk, house clerk, and state library on or before November 1, 1996.

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a committee to study the feasibility of requiring insurers to cover early intervention services.

SENATOR FRASER: Early intervention services are services for disabled children from birth to the age of three. This bill, as originally proposed, would insure that insurance that a child has would have been used to pay for these services. The committee felt that because of the complexity of the issue, especially in cases where the insurance is provided by an HMO, the subject needs to be studied in much more detail. The amendment to this bill creates a study committee to look into the issue of early intervention services and ways in which those services are paid for with regard to insurance. The vote was unanimous, Mr. President, that we convert this bill to a study.

Amendment adopted.

Ordered to third reading.

SB 623, an act to provide an optional retirement program for employees of the department of regional community-technical colleges. Insurance Committee. Vote: 6-0. Ought to pass with amendment. Senator Fraser for the committee.

4988L

Amendment to SB 623

Amend the bill by replacing section 2 with the following:

2 New Chapter; Optional Retirement Program for Department of Regional Community-Technical Colleges. Amend RSA by inserting after RSA 100-A the following new chapter:

CHAPTER 100-B

OPTIONAL RETIREMENT PROGRAM FOR DEPARTMENT OF REGIONAL COMMUNITY-TECHNICAL COLLEGES

100-B:1 Definitions. In this chapter:

I. "Accumulated contributions" means the sum of all the amounts deducted from the compensation of an employee together with any amount transferred to the account of the employee established pursuant to the retirement system from the respective account of the employee under one or more predecessor systems, with interest thereon, as provided in RSA 100-A:16, II(g).

II. "Board of trustees" means the board provided for in RSA 100-A:14.

III. "Earnable compensation" means for all employees the full base rate of compensation paid plus any overtime pay, holiday and vacation pay, sick pay, longevity or severance pay, cost of living bonus, additional pay for extracurricular and instructional activities or for other extra or special duty, and other compensation paid to the employee by the employer, plus the fair market value of non-cash compensation such as meals or living quarters if subject to federal income tax.

IV. "Employee" means any regular classified or unclassified officer or employee of the department of regional community-technical colleges, including, without limitation, its institutes and colleges.

V. "Employer" means the department of regional community-technical colleges, including, without limitation, its institutes and colleges, the employees of which are paid through the office of the state treasurer.

VI. "Membership service" means service rendered while a member of the retirement system.

VII. "Predecessor system" means, where applicable, the employees' retirement system of the state of New Hampshire, the New Hampshire teachers' retirement system, the New Hampshire policemen's retirement system, or the New Hampshire firemen's retirement system, or any combination thereof.

VIII. "Prior service" means service rendered, for which credit was given under the terms of one or more of the predecessor systems as set forth in RSA 100-A:4, prior to the date of membership in the retirement system or participation in the optional retirement program.

IX. "Retirement system" means the New Hampshire retirement system as defined in RSA 100-A:2.

X. "State" means the state of New Hampshire.

100-B:2 Establishment. Notwithstanding any provision of RSA 100-A, commencing July 1, 1996, the board of governors of the department of regional community-technical colleges shall establish an optional retirement program, which shall be an alternative program to the retirement system, and any eligible employee of the department of regional community-technical colleges may elect coverage under the optional retirement program in lieu of participation in the retirement system. Any such election shall be irrevocable and shall constitute a waiver of all rights and benefits for an employee who is not vested in the retirement system at the time such employee terminates participation in the retirement system. An employee who is vested in the retirement system at the time such employee terminates participation in the retirement system shall be entitled to their vested benefits only.

100-B:3 Administration. The optional retirement program shall be administered under Section 401(a) or 403(a) of the United States Internal Revenue Code of 1986, as amended. The retirement system board of trustees shall cooperate with the board of governors of the department of regional community-technical colleges to facilitate the implementation of the optional retirement program.

100-B:4 Requirements of Optional Retirement Program. The board of governors of the department of regional community-technical colleges shall determine the benefits, eligibility requirements, and other terms and conditions of the optional retirement program not otherwise prescribed by this section. The optional retirement program shall provide, among other things, that:

I. Each employee participating in the optional retirement program shall make contributions to the optional retirement program based upon a percentage of such employee's earnable compensation at the time such contributions are made. Such percentage shall equal the percentage applicable to employee contributions under the retirement system on the date the optional retirement program is implemented. Employee contributions under the optional retirement program shall be picked up by the employer in accordance with section 414(h) of the United States Internal Revenue Code of 1986, as amended.

II. The employer shall make contributions to the optional retirement program with respect to each employee participating in the optional retirement program based upon a percentage of such employee's earnable compensation at the time such contributions are made. Such percentage shall equal the percentage applicable to employer contributions under the retirement system on the date the optional retirement program is implemented.

III. The employer shall make unfunded accrued liability contributions in accordance with RSA 100-A based upon the compensation of optional retirement program participants.

IV. The state shall contribute toward employer contributions and unfunded accrued liability contributions made pursuant to the optional retirement program to the same extent as the state contributes toward normal contributions and unfunded accrued liability contributions made pursuant to the retirement system.

V. Notwithstanding any other provision of RSA 100-A to the contrary, if the employee is a member of the retirement system at the time such employee elects to participate in the optional retirement program, the employee may direct that the amount of the accumulated contributions be transferred directly to such employee's account in the optional retirement program. Any such transfer shall include interest to the date of transfer and shall be made in the form of a direct trustee-to-trustee transfer in compliance with the requirements of the United States Internal Revenue Code of 1986, as amended, and any applicable rules and regulations thereunder.

VI. No employee shall receive retirement income under the optional retirement program while such employee is employed by the department of regional community-technical colleges or any other employer, as defined in RSA 100-A:1, IV.

VII. For purposes of RSA 21-I:29, "retirement" shall also mean withdrawal from service while a participant in the optional retirement program. For purposes of RSA 21-I:30, II, "retired employee" shall also mean a participant in the optional retirement program who retires from service and satisfies the definition under RSA 21-I:30, II of "retired employee" applicable to group I state employees. For purposes of RSA 21-I:30, with respect to any employee who is a participant in the optional retirement program, "creditable service" shall mean prior service plus membership service plus service while a participant in the optional retirement program.

100-B:5 The board of governors of the department of regional community-technical colleges may establish a disability plan, which shall be funded by employee contributions, for participants of the optional retirement program. Participation in such plan shall be at the option of such participants.

SENATOR FRASER: This bill will set up an alternative retirement policy for members working in the postsecondary college system which they can transfer if they move on to another school in another state. At this time, New Hampshire only offers the New Hampshire Retirement System policy, which is not transferable when a person leaves state service. Being a professor is unlike other jobs in that in order to move up the ladder you often have to switch schools. So workers in the technical college system often travel from one job to another. Transferring the policy allows the worker to continue to accrue time with the policy instead of having to start a new retirement policy every time they start a new job. This alternative retirement system will also prove to be an incentive for the technical college system as they can use it to lure teachers into the state, because when the teachers come here, they will be able to transfer their retirement plan into this plan. The committee recommends this bill as ought to pass as amended.

SENATOR PODLES: Senator Fraser, is this bill in any way retroactive?

SENATOR FRASER: No.

SENATOR PODLES: We needed this bill the last session.

SENATOR FRASER: I think that it is effective in July.

Amendment adopted.

Ordered to third reading.

SB 627, an act relative to insurance coverage for childbirth. Insurance Committee. Vote: 7-0. Ought to pass. Senator Shaheen for the committee.

SENATOR SHAHEEN: What SB 627 would do is to require forty-eight-hour hospital stays for women delivering babies. It also has a section that would require post-delivery care or home visits in accordance with accepted maternal assessments, maternal and neonatal physical assessments. This bill is a . . . **TAPE CHANGE** . . . what we know about babies that are released from the hospital in less than forty-eight hours is that they have a 50 percent greater chance of requiring follow-up care and a 70 percent greater chance of being admitted to the emergency room. This bill is an effort to address that concern. The committee voted it out unanimously and I would urge the Senate to support the ought to pass motion.

Adopted.

Ordered to third reading.

SB 514, an act relative to the definition of personal watercraft. Fish and Game/Recreation Committee. Majority report: Ought to pass. Senator Roberge for the Majority. Vote: 4-3. Minority report: Inexpedient to legislate. Senator Currier for the Minority. Vote: 3-4.

SENATOR CARRIER: I oppose the passage of this bill because the actual amendment that was proposed makes matters worse. The lakes would be closed before any public hearing would actually take place. Those individuals who do not live on waterfront property, who have a right to use of the lakes, who don't live in the town, would actually not have an opportunity to petition to have the lake open. There are a lot of individual problems with this particular piece of legislation as you all are aware from the phone calls that you have been getting, probably by the tens of hundreds. In 1988 a hearing process was established by the Department of Safety which resulted in the closure of 90 percent of the lakes which had hearings. We are concerned that given this track record that the lakes being petitioned would not, in fact, be open. So this reverse process is not clear to those people who don't own lakefront property and that is why I am opposed to this bill. I recommend my colleagues to defeat the ought to pass motion. There was an amendment that was being circulated in committee, that was defeated 7 to 0, as I understand it, that would have provided some other alternatives and I believe it's going to be proposed here on the floor this morning with an additional amendment that would make the effective date October 1, so that this year, at least, this season, this summer season, it wouldn't be affected by the legislation, the elimination of the three- and four-passenger personal watercrafts. I plan to vote against those amendments as well.

Recess.

Out of recess.

SENATOR ROBERGE: The bill does, in fact, call for certain lakes to ban certain watercraft. **TAPE INAUDIBLE.** The committee felt that a watercraft is a watercraft. They are all powered by the same type of mechanism and Senator Johnson does have an amendment **TAPE INAUDIBLE.**

SENATOR JOHNSON: Is SB 514 déjà vu all over again? You bet it is. Should SB 514 be déjà vu all over again? You bet it should. Let's review the history. In 1988, the legislature in their wisdom enacted legislation, RSA 270:73 and RSA 270:74, V. These statutes allow the commissioner of safety, after a public hearing, to ban or restrict personal watercraft on a particular body of water. Other waters are restricted statutorily. This

all came about after years of debate and after a time when bill after bill was introduced to restrict ski craft on particular bodies of water. The legislature struck a balance between the rights of ski craft operators and the rights of all others to enjoy the public waters. The waters are in the public trust and the legislators are the gatekeepers of that public trust, not for the particular body of water in our town or city or in our district, but for all of the 975 bodies of water statewide. Today's problem is in the existing definition in RSA 270:73, V. It classifies ski craft as any motorized watercraft or private boat which is less than 13 feet in length as manufactured and is capable of exceeding a speed of 20 miles per hour and has the capacity to carry not more than the operator and one other person while in operation. So the current law applies only to one- and two-person crafts, while the industry has responded with three-person crafts and that amounts now, to about 70 percent of their sales. The three-person craft with minimal dimensional changes is identical to a two-person craft but, because of the 1988 language, they are not subject to the same restrictions and can go anywhere and do anything a traditional boat can do. For those who say that enforcement should be the answer, let's face reality; we have 975 bodies of water that we are talking about, and there is no way that we can afford to make that happen. So the answer is a balance between enforcement and regulation, which is not unusual and also a fair compromise. With the passage of SB 514, personal watercraft will still be allowed to operate on 53 percent of our lakes and ponds, which constitutes 61 percent of the surface area. Compared to our neighbor, Vermont, they forbid personal watercraft operation on 258 of its 287 bodies of water. Let me point out that SB 514 is supported by not only the Department of Safety, but Fish and Game, the Department of Environmental Services, Department of Resources and Economic Development and the Office of State Planning. It is rather unusual that you get five agencies to support a piece of legislation but these cover concerns about safety, the environment and tourism. In closing, I remind you that if we fail to enact this legislation, we will have invalidated the current ski craft law which so many people worked so hard to establish. Thank you for your attention and your patience and I urge you to vote in favor of SB 514. Thank you, Mr. President.

SENATOR BLAISDELL: Senator Johnson, I want to be sure that I heard you right, now. I think I've some wrong information. In my district, the Swanzey Lake and in Senator Rodeschin's district, it used to be mine, Granite Lake, prohibit jet skis on that lake. Are you telling me that now that these will be allowed on Swanzey Lake and Granite Lake, these bigger craft?

SENATOR JOHNSON: If this bill does not pass, you will have those craft on those lakes.

SENATOR LOVEJOY: Senator Johnson, the 47 percent of the lakes, is that what I heard you say, that 47 percent will not permit these craft? Fifty-three percent would.

SENATOR JOHNSON: That is correct.

SENATOR LOVEJOY: Has there been any notice given to the purchasers who bought these crafts, that perhaps they will not be able to use these crafts in the future as they had intended when they made the expenditure and purchase?

SENATOR JOHNSON: I am sure that in following the legislation and the many calls that I have received from the industry and the individual dealers, I am sure that they are well aware of the legislation.

SENATOR LOVEJOY: What am I going to tell my distributors who have purchased for resale these jet skis when the market is affected greatly and they are not going to be able to sell them or pass them on? What am I going to be able to tell the business people who have invested a great deal of money?

SENATOR JOHNSON: Well, number one, Senator Lovejoy, I don't believe it will have a great effect on the businesses because business will continue to grow just as it grew when we outlawed the one- and two-seaters. That industry has flourished, so I don't believe that is a rationale that I could follow, number one. Number two, I would say that they could still, as I said in my testimony, they could still use 53 percent of the bodies of water in the state of New Hampshire, which amounts to over 60 percent of the surface area.

SENATOR LOVEJOY: Would you believe, Senator, that I believe that those people who have purchased or who have investments are in danger of suffering a great economic loss if this bill is passed. They won't be able to follow through with the use of the craft as they had intended when they made the purchase.

SENATOR JOHNSON: Would you believe, that I don't believe that will happen because they will take those craft and they will go to the lakes and ponds where they will be available to use.

SENATOR COHEN: This is a follow up to Senator Blaisdell's question. If SB 514 were not to pass, would it not have the effect of taking RSA 270, which was passed in 1989, and basically ripping it out of the law books, because that law was passed by the legislature to enable the small lakes to limit the jet skis and that the three-person jet skis didn't exist when that law passed, so that without this, there is a loophole allowing these jet skis to go on lakes that the legislature intended them not to go on?

SENATOR JOHNSON: That is a good point, Senator Cohen. I didn't bring that out in my testimony, but this also will allow those vehicles to be on the 369 lakes that are under 75 acres. So you will just wipe out the legislation that we put into effect in 1988 and 1989.

SENATOR COHEN: Thank you.

Question is on the majority report of ought to pass.

A roll call was requested by Senator Currier.

Seconded by Senator Stawasz.

The following Senators voted Yes: Gordon, Johnson, Rodeschin, Roberge, Blaisdell, Stawasz, Pignatelli, Larsen, Barnes, Russman, Danaïs, Delahunty, Keough, Cohen.

The following Senators voted No: F. King, Fraser, Rubens, Lovejoy, Currier, Wheeler, Colantuono, Podles, J. King, Shaheen.

Yeas: 14 - Nays: 10

Adopted.

Senator Johnson offered a floor amendment.

5073L

Floor Amendment to SB 514

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the definition of personal watercraft and authorizing certain residents to petition the commissioner of safety to allow the use of personal watercraft on previously restricted water bodies.

Amend the bill by replacing all after section 4 with the following:

5 Petition to Allow Certain Personal Watercraft on Previously Restricted Water Bodies. Prior to January 1, 1998, any group of 10 or more residents or property owners of a town in which a lake, pond, or river is located which has been the subject of a personal watercraft restriction or prohibition ordered by the commissioner, pursuant to RSA 270:74-a, may petition the commissioner to allow the use on that body of water of personal watercraft with a capacity of more than 2 persons.

6 Effective Date. This act shall take effect October 1, 1996.

AMENDED ANALYSIS

This bill:

(1) Changes the definition of "ski craft" to "personal watercraft."

(2) Authorizes residents of certain water bodies to petition the commissioner of safety to allow the use of certain personal watercraft on previously restricted water bodies.

SENATOR JOHNSON: What this amendment does, Mr. President, is to allow certain personal watercraft on previously restricted bodies of water. With any group of ten or more residents or property owners of a town, which had been the subject of personal watercraft restriction or prohibition, the commissioner will hold hearings and they will allow the use of that body of water or personal watercraft with the capacity of more than two persons if it comes out of the Department of Safety with that recommendation. The second part of the floor amendment is making the passage effective October 1, 1996 and the reason for that is that we felt that we wanted to give the Department of Safety enough time to set the hearing process.

SENATOR CURRIER: Senator Johnson, it says here prior to January 1, 1998, a group of 10 or more can petition. Does that mean after that they can't petition any longer? This is only a window of opportunity? I didn't hear that prior to seeing this, so is that what the effect of this does?

SENATOR JOHNSON: Well, this was the same amendment that I offered to the committee that you are on and I am assuming that you saw that amendment in committee, so I don't think that it is a surprise coming to the floor today out of committee.

SENATOR CURRIER: But could you answer the question? It's a window of opportunity. If I wanted to petition after January 1, 1998, I would not be allowed to do that and then those lakes would then be permanently closed?

SENATOR JOHNSON: I would not say that they would be permanently closed, but I would say that there is that date of 1998 right at the moment, yes.

SENATOR SHAHEEN: Senator Johnson, can you tell me if the current statute that restricts one- and two-seat jet skis on lakes had a window in which they were allowed to petition to do that or is that open ended?

SENATOR JOHNSON: I believe that I have that here, Senator. That would be RSA 270:73 and RSA 270:74, V which was in 1989.

SENATOR SHAHEEN: Did it provide only a window to do that petitioning or was it an open-ended process which could happen at any time in the future?

SENATOR JOHNSON: I can't answer that question right at the moment.

SENATOR SHAHEEN: Is there anyone here who could answer that question?

SENATOR BLAISDELL: Mr. President, it is open ended. That's the way the law was passed in 1988 and I believe those RSAs that you quoted in here are the ones that will protect . . . TAPE INAUDIBLE.

SENATOR SHAHEEN: Senator Johnson, can you tell me why you didn't, why your amendment doesn't mirror the current statute and allow for an open-ended process for petitioning?

SENATOR JOHNSON: Right at the moment, I can't.

Recess.

Out of recess.

Senator Johnson moved to have **SB 514**, an act relative to the definition of personal watercraft, laid on the table.

Adopted.

LAI D ON THE TABLE

SB 514, an act relative to the definition of personal watercraft.

SB 515, an act relative to venue for arraignment and bail of defaulters. Judiciary Committee. Vote: 5-0. Ought to pass with amendment. Senator Cohen for the committee.

5022L

Amendment to SB 515

Amend RSA 602:2 as inserted by section 1 of the bill by inserting after paragraph II the following new paragraph:

III. If an arraignment is held under paragraph I, the court, with the agreement of the state and the defendant, may accept a plea of guilty or no contest on the defaulted charge for which the warrant for nonappearance was issued. The court may sentence the defendant on such charge and take action to enforce the sentence including the collection of fines including those fines for which a warrant was issued for nonpayment of a fine.

AMENDED ANALYSIS

This bill requires justices to hold arraignments on a person who has been arrested on a warrant for default of a court appearance or nonpayment of a fine, regardless of the county in which the warrant was issued.

The bill allows the court holding the arraignment, with the agreement of the state and the defendant, to accept a plea of guilty or no contest, sentence the defendant, and enforce the sentence including the collection of fines for which a warrant was issued for nonpayment of a fine.

SENATOR COHEN: This bill would allow arraignments to take place in jurisdictions in which a person is arrested on a warrant for default of a court appearance or nonpayment of a fine. Currently the arrested individual must be transferred to the court which issued the arrest warrant. The amendment would allow the court conducting the arraignment, with the agreement of the state and the defendant, to accept a plea of guilty or no contest, sentence the defendant and enforce the sentence including the collection of fines for which the warrant was issued for non-payment of a fine. I urge your support. Thank you.

Amendment adopted.

Ordered to third reading.

SB 530, an act authorizing the court to suspend the motor vehicle driver's license of a person convicted of criminal mischief. Judiciary Committee. Vote: 6-0. Ought to pass with amendment. Senator Podles for the committee.

5027L

Amendment to SB 530

Amend RSA 634:2, VII as inserted by section 2 of the bill by replacing it with the following:

VII. The court may suspend, for a period not to exceed 90 days, the driver's license of a person who is found guilty of criminal mischief.

AMENDED ANALYSIS

This bill authorizes the court to suspend, for a period not to exceed 90 days, the motor vehicle driver's license of a person convicted of criminal mischief.

SENATOR PODLES: SB 530 authorizes the court to suspend a driver's license of a person convicted of criminal mischief, which is basically graffiti. Any person found guilty of criminal mischief shall be fined the maximum fine for a Class B misdemeanor. The court may also suspend the driver's license. The amendment adds not to exceed 90 days. The intent of the bill is to act as a deterrent, especially among young drivers, of criminal mischief. The committee recommends ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

SB 562-FN-LOCAL, an act returning municipal ordinance fines to the municipalities. Judiciary Committee. Vote: 6-0. Ought to pass. Senator Pignatelli for the committee.

SENATOR PIGNATELLI: We all know that our local communities are finding it harder every year to balance their budgets, to provide necessary local services and to control taxes. This bill will provide some help. Most arrests and prosecutions or district court violations are handled by local police officers. It is only fair for cities and towns to receive the fruits of their labor in enforcing the law and that the revenue from fines should go to those cities and towns to help offset their costs in enforcing the laws giving rise to these convictions. This money certainly won't solve the problem of escalating property taxes, but it certainly will help. The committee voted this bill out as ought to pass unanimously and I urge passage of this bill in the Senate. Thank you very much.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 573, an act relative to the issuance by courts of telephonic emergency temporary orders. Judiciary Committee. Vote: 6-0. Ought to pass with amendment. Senator Podles for the committee.

5036L

Amendment to SB 573

Amend the introductory paragraph of RSA 173-B:6 as inserted by section 1 of the bill by replacing it with the following:

Upon a [showing] ***finding*** of an immediate and present danger of abuse, the court may enter such temporary orders [as it deems necessary] to protect the plaintiff with or without actual notice to defendant. The court may issue such temporary orders by telephone or facsimile during times other than regular court business hours. Such telephonically issued orders [may] ***shall*** be made by a district or superior court judge to a law enforcement officer, and shall be valid in any jurisdiction in the state and shall be effective until the close of the next regular court business day. Such order shall be returnable to the district court where the plaintiff resides or has fled to, unless otherwise ordered by the issuing justice. If non-telephonic temporary orders are made ex parte, the party against whom such relief is issued may file a written request with the clerk of the court and request a hearing thereon. Such hearing shall be held no later than 5 business days after the request is received by the clerk. Such hearings may constitute the final hearing described in RSA 173-B:3, IV. Such temporary relief may include:

AMENDED ANALYSIS

This bill requires telephonically issued temporary orders to protect a plaintiff from domestic abuse to be made by a district or superior court judge to a law enforcement officer.

SENATOR PODLES: Mr. President, SB 573 is an act relative to the issuance by courts of telephonic emergency temporary orders. The Judiciary Committee voted ought to pass as amended 6 to 0. The amended bill requires that any telephonically issued orders which may be issued be made by a district or a superior court judge to a local law enforcement officer. The committee recommends ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

SB 588, an act relative to tenant eviction proceedings. Judiciary Committee. Vote: 6-0. Ought to pass with amendment. Senator Lovejoy for the committee.

5045L

Amendment to SB 588

Amend the bill by replacing all after the enacting clause with the following:

1 Writ of Summons and Notice. Amend RSA 540:13, III to read as follows:

III. The writ of summons and the notice provided in paragraph II shall [be served no less than 7 days before the return day set forth in the writ] ***be returnable 7 days from the day of service of the writ by the sheriff.***

2 Hearing. Amend RSA 540:13, V to read as follows:

V. If the tenant files an appearance, ***a hearing shall be scheduled to occur within 10 days after such filing, with allowance for***

additional time pursuant to paragraph IV, with notice of the hearing [shall be] mailed to the parties no less than [7] 6 days prior to the hearing. If the tenant fails to file an appearance or fails to appear at the hearing on the merits, the court shall mail a notice of default to the address set forth on the summons at least 3 days prior to the issuance of the writ of possession.

3 Effective Date. This act shall take effect January 1, 1997.

SENATOR LOVEJOY: Mr. President, SB 588 changes the time required for the process of a written summons from a landlord to a tenant for the purposes of eviction. The amendment changes the writ of summons to be returnable seven days from the day of service of the writ by the sheriff and mailed to the parties no less than six days prior to the hearing. Mr. President, the bill also clears up the date on which a hearing must take place by requiring that it take place within 10 days after a tenant files an appearance. Again, this is a practice followed by most district courts, but the bill makes the procedure uniform among all district courts. The committee recommends ought to pass.

Amendment adopted.

Ordered to third reading.

SB 629, an act relative to testamentary additions to trusts. Judiciary Committee. Vote: 6-0. Ought to pass with amendment. Senator Gordon for the committee.

5021L

Amendment to SB 629

Amend RSA 563-A:1, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) At the testator's death by the testator's devise to the trustee, if the trust is identified in the testator's will and its terms are set forth in a written instrument, other than a will, executed before, concurrently with, or after the execution of the testator's will or in another individual's will if that other individual has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust. The devise or bequest is not invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or the testator's death.

SENATOR GORDON: This bill adopts certain provisions of the Uniform Testamentary Additions to Trusts Act. In particular, it clarifies the law when people, who in their wills, leave property to trusts that they created during their lifetimes. This gives individuals greater flexibility in determining how their property will be disposed after their deaths. The Judiciary committee unanimously recommends this bill as ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

SB 634, an act establishing a committee to study the feasibility of legislative review of judges and term limitations on judicial appointments. Judiciary Committee. Vote: 5-1. Inexpedient to legislate. Senator Podles for the committee.

SENATOR PODLES: Mr. President, SB 634 seeks to establish a committee to study the feasibility of legislative review of judges and term limitations on judicial appointments. The committee voted it inexpedient to

legislate by a 5 to 1 margin. Although in principle it is commendable to make the approval of judges more public, there are alternative ways to approach the goal of establishing better communication between three branches of state government. The committee recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

Senators Roberge, Stawasz and Wheeler in opposition to the inexpedient to legislate motion on SB 634.

Recess.

Out of recess.

SB 649-FN, an act relative to the definition of "self-support reserve" used in determining an obligor's child support obligation. Judiciary Committee. Vote: 6-0. Inexpedient to legislate. Senator Gordon for the committee.

SENATOR GORDON: This bill would change the definition of self-support reserve as used in determining a person's child support obligation. Currently the Senate Judiciary Committee is considering comprehensive legislation that would change the child support obligation statutes. The Judiciary Committee believes that this bill is unnecessary at this time. We offer the recommendation of inexpedient to legislate.

SENATOR STAWASZ: Even though the financial implications of this bill gave the committee great momentum to look for an inexpedient, and there is an attempt to remedy this problem, I want to call to the Senate's attention that the kids are really the ones who get the short end when we determine a custodial parent's support level, based on whether they are male or female. Although I don't think my colleagues are going to turn around and support ought to pass, I urge you to keep a close eye on this particular issue in terms of basic fairness.

Committee report of inexpedient to legislate is adopted.

Senator Stawasz in opposition to the motion of inexpedient to legislate on SB 649-FN.

SB 504, an act relative to the legal killing of certain dogs. Public Affairs Committee. Vote: 4-0. Ought to pass with amendment. Senator Rubens for the committee.

4981L

Amendment to SB 504

Amend RSA 466:28 as inserted by section 1 of the bill by replacing it with the following:

466:28 Killing Dogs Legalized. Any person may kill a dog that is worrying, attacking, wounding, or killing sheep, lambs, fowl, or other domestic livestock, or that is assaulting or attacking other domestic animals or that suddenly assaults that person when necessary to discontinue an attack upon that person, provided that the attack or assault does not occur while the dog is restrained, within an enclosure, or on the premises of the owner. For the purposes of this section "worrying" means to run after, chase, or bark at domestic livestock which is in an enclosure.

SENATOR RUBENS: Mr. President, SB 504 is designed to clarify current law as it relates to the killing of dogs. Current language is quite broad, allowing an individual to kill any dog that assaults the individual if the dog is without its owner or keeper. This bill attempts to narrow this language significantly and the amendment allows the killing of a dog if

it is found attacking domestic livestock, since an attack on livestock represents a direct threat to someone's livelihood. The committee recommends the bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 510, an act authorizing town moderators to require a secret ballot. Public Affairs Committee. Vote: 3-0. Ought to pass with amendment. Senator Rubens for the committee.

4989L

Amendment to SB 510

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing town moderators to call a secret ballot.

Amend RSA 40:4-a, I as inserted by section 1 by replacing it with the following:

I.(a) At any meeting of a town with a population of more than 500, ***the moderator may call or*** 5 voters may make a request in writing prior to a vote by voice vote or division vote, that the vote be taken by secret written ballot. Upon receiving such a request ***or, in the absence of such a request, in the discretion of the moderator,*** the moderator shall conduct the vote by secret "yes — no" ballot.

(b) ***A discretionary decision by the moderator to call a secret ballot may be overruled by a majority vote of the meeting.***

(c) Notwithstanding any other provision of law, on the request of 5 voters ***or, in the absence of such a request, in the discretion of the moderator,*** the moderator shall conduct a recount on any vote taken by secret written ballot under subparagraph (a). The recount shall take place immediately following public announcement of the vote taken providing that the vote margin is not more than 10 percent of the total vote cast. There shall be no fee required for a recount under this section.

AMENDED ANALYSIS

Sections 1 and 2 of this bill authorize town moderators, in their own discretion, to call a secret ballot.

Sections 3-6 of the bill amend other sections of RSA 40 to make them gender neutral in conformance with RSA 17-A:6 concerning gender neutral drafting.

SENATOR RUBENS: Mr. President, SB 510 gives town moderators the option of requiring a secret ballot in town or school district meetings. Testimony indicated that there are times at these meetings when an issue is so sensitive that a secret ballot should be taken to insure an accurate vote. This bill would allow moderators the discretionary decision to call for a secret ballot in these instances. The amendment gives the voters the opportunity to overrule the decision of the moderator to call a secret ballot if voters so choose. The Public Affairs Committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 559-FN-LOCAL, an act declaring proposed public collective bargaining agreements to be public records subject to inspection. Public Affairs Committee. Vote: 3-0. Ought to pass with amendment. Senator Stawasz for the committee.

4991L

Amendment to SB 559-FN-LOCAL

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Proposed Collective Bargaining Agreement; Public Disclosure Required. Amend RSA 273-A:3 by inserting after paragraph II the following new paragraph:

II-a. Within 144 hours after all negotiating parties have reached agreement, the proposed contract shall be a public record in the form of a written document embodying the entire agreement and subject to inspection by every citizen pursuant to RSA 91-A:4.

SENATOR STAWASZ: SB 559, as amended, clarifies existing law concerning collective bargaining agreements and requires documents be made available to the public within 144 hours after all negotiating parties have reached agreement on a contract. The committee recommends the bill as ought to pass as amended.

SENATOR F. KING: When in this process would this be considered to be completed, after the party has signed off or when they just verbally agree?

SENATOR STAWASZ: The reason for the wording, Senator King, was a court case where the local board and bargaining unit never got around to getting everything written down, so the judge ruled it wasn't public record. This gives them a time frame after they have reached agreement to actually get it printed up and made available for public distribution. So they have a time frame after they have reached agreement to put it in writing and let folks take a look at it.

SENATOR F. KING: But after they have reached agreement, 144 hours after they've completed a verbal arrangement or agreement, or 144 hours after they have signed an agreement? Does that then give them the time to prepare the data for the public?

SENATOR STAWASZ: The legislative intent there, Senator King, is that once they have reached agreement to give them 144 hours to produce a document available for the public.

SENATOR F. KING: When have they reached agreement?

SENATOR STAWASZ: That is really up to the two parties to decide when they are ready to get it printed up. It just requires that they do.

SENATOR BLAISDELL: I have been noticing . . . who chairs Public Affairs? Oh, Senator Rubens. I noticed that there are a lot of 3 to 0 votes. Isn't it the process to poll other members of the committee? I know that I have sat on a lot of committees and they have polled us on how these bills come out. Do you do that in this committee or not?

SENATOR RUBENS: Yes, the committee secretary was instructed to poll other members of the committee. I don't ride herd on the committee secretary.

SENATOR BLAISDELL: I only say that because it looks funny seeing 3 to 0 there when there are six members on the committee. I just wondered what the other three are thinking, that's all.

Amendment adopted.

Ordered to third reading.

SB 644, an act clarifying the definition of a meeting under the right-to-know law. Public Affairs Committee. Vote: 4-0. Inexpedient to legislate. Senator Barnes for the committee.

SENATOR BARNES: The Public Affairs Committee feels this bill is unnecessary at this time. There was not sufficient testimony at the hearing to indicate a need for this legislation. The committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 522, an act increasing the income eligibility for child care benefits under AFDC. Public Institutions, Health and Human Services Committee. Majority report: Interim study. Senator Podles for the Majority. Vote: 5-2. Minority report: Ought to pass. Senator Larsen for the Minority. Vote: 2-5.

Senator Russman moved to have **SB 522**, an act increasing the income eligibility for child care benefits under AFDC, laid on the table.

Adopted.

LAI D ON THE TABLE

SB 522, an act increasing the income eligibility for child care benefits under AFDC.

SB 546-FN, an act relative to self-employment for certain public assistance recipients. Public Institutions, Health and Human Services Committee. Vote: 5-2. Interim study. Senator Podles for the committee.

SENATOR PODLES: Mr. President, SB 546 would require the Department of Health and Human Services to adopt rules to allow AFDC or New Hampshire Employment Program to benefit recipients to participate in certain self-employment programs. This bill is coming in at a time when the department is making adjustment to the implementation of HB 32 from the last session. Testimony at the public hearing indicated that the department may already be able to incorporate such a program under HB 32 and the department needed time to fully understand what was contained in HB 32. The committee urges interim study to be able to take some time and look at this further.

Committee report of interim study is adopted.

SB 619, an act relative to the voluntary administration of estates. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass with amendment. Senator Wheeler for the committee.

5034L

Amendment to SB 619

Amend the bill by replacing all after the enacting clause with the following:

1 Reference Deletion. Amend RSA 553:16 to read as follows:

553:16 Publication of Notice of Appointment. Upon appointment of an administrator or executor, the register of probate shall, within 15 days of such appointment, cause notice thereof to be published in accordance with the provisions of RSA 550:10. Notwithstanding the foregoing, no publication of notice shall be required in the administration of small estates under RSA 553:31 [and RSA 553:31-a].

2 Administration of Small Estates. RSA 553:31 is repealed and reenacted to read as follows:

553:31 Administration of Small Estates.

I. If the estate of a person, whether testate or intestate, consists entirely of personal property of a gross value not exceeding \$10,000, and after the expiration of 30 days from date of death, the will, if any, has been allowed and no petition under RSA 552:7 or 552:8 or any other sec-

tions of RSA 553 has been filed, the right to administer shall be in the executor named in the will, if any, and otherwise as set forth in RSA 553:2, upon filing with the probate court in the county in which the deceased was domiciled at the time of death, an affidavit stating that the affiant has undertaken to act as executor or voluntary administrator of such estate and will administer the same according to law. Such executor or voluntary administrator shall, at the time of filing such affidavit, also file:

(a) A personal bond without sureties;

(b) A list of heirs or list of legatees or devisees as required under RSA 86:18;

(c) A report of gifts and transfers in accordance with RSA 86:22 with the register of probate and with the department of revenue administration;

(d) An appointment of some person residing in this state as an agent pursuant to RSA 553:25 for every nonresident executor or voluntary administrator; and

(e) A list of assets owned by the deceased and to be administered, sufficiently described to afford reasonable identification, along with a list of the value of each. The list of assets shall be incorporated into the affidavit. The form of the affidavit, and the rules governing proceedings under this section, shall be prescribed in the manner referenced by RSA 547:33.

II. Upon approval of the probate court and payment of a fee as established by the supreme court, the register of probate shall, if no other petition for administration is pending, issue an attested copy of the affidavit bearing the court's approval. The attested copy of the affidavit issued shall constitute sufficient legal authority to all persons whether as depository, register or transfer agent, debtor or otherwise owing any money or having custody of, an interest in, or dealing with, any of the property or property interests or rights listed in the list of assets and values within the attested copy of the affidavit, to make payment, surrender custody, or transfer to the affiant any such property or property interests or rights of the deceased belonging to the deceased's estate with the same effect as if made to an executor or administrator otherwise duly appointed pursuant to the provisions of RSA 553. Out of the assets which the executor or voluntary administrator collects, the executor or voluntary administrator shall pay the charges of the deceased's estate in accordance with the provisions of RSA 167:13, RSA 554:19, or RSA 557:34, as applicable. If any balance remains, the executor or voluntary administrator shall distribute it, after approval by the court, in accordance with the will or, if there is no will, in accordance with the provisions of RSA 561. The executor or voluntary administrator may not take a fee or commission for such services.

III. An executor or voluntary administrator appointed pursuant to the provisions of this section shall be liable as an executor in his or her own wrong, as provided in RSA 553:17, to all persons aggrieved; and if letters testamentary or of administration are later granted, then to the executor or administrator so appointed. If an executor or administrator of the deceased person is appointed under any other sections of RSA 553, the powers of the executor or voluntary administrator appointed pursuant to this section shall immediately cease. If the executor or voluntary administrator appointed under this section uncovers further assets of the estate of the deceased person not originally inventoried under the statement of assets of the original affidavit, and such additional assets, when

added to those originally inventoried, do not exceed \$10,000, the executor or voluntary administrator may file an amended affidavit, similar in content to the original affidavit. The amended affidavit shall include all of the assets listed in the original affidavit, together with the additional assets. Upon approval of the court, the register of probate shall issue an attested copy of the amended affidavit, which amended affidavit shall have the same force and effect as the original attested copy of the affidavit issued by the register of probate.

IV. An executor or voluntary administrator appointed under this section shall render a statement of administration, and the estate shall be closed no earlier than 90 days, nor later than 6 months, from the date of the probate court's approval of the original affidavit unless, upon petition and good cause shown, the court grants an extension of further time for completion of administration. The statement of administration shall set forth all assets and income received and all disbursements and expenditures made during the course of administration. The executor or voluntary administrator shall distribute any balance in hand to legatees or heirs after receiving approval by the court.

3 Repeal. RSA 553:31-a, relative to the administration of small estates over \$500, is repealed.

4 Effective Date. This act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill blends the 2 statutes relative to the administration of small estates into one statute in an effort to clarify this procedure.

SENATOR WHEELER: This bill combines two separate procedures that are currently in the law into one uniform and standard procedure and it allows people to probate the estates and small amounts of assets, up to \$10,000, much easier.

Amendment adopted.

Ordered to third reading.

SB 624, an act establishing a committee to study ways to promote the safest hypodermic needle to eliminate the transmission of bloodborne diseases. Public Institutions, Health and Human Services Committee. Vote: 3-2. Inexpedient to legislate. Senator Podles for the committee.

SENATOR PODLES: SB 624 creates a study committee to examine different ways to promote the safest hypodermic needles to eliminate the transmission of AIDS and other bloodborne diseases. This bill creates a committee to study information that has already been examined and continues to be researched by numerous organizations and committees. This would be a duplication of effort and the committee urges inexpedient to legislate.

SENATOR J. KING: I rise in support of the bill and I ask that you vote no on the recommendation of inexpedient to legislate. This bill has nothing to do with handing needles out to anybody, not giving them away, not picking them up, not passing them out. This bill does one thing. The best way to stop any of those things is if you can get a needle that is going to eliminate the possibility of using it or reusing it. That is the purpose of this bill and to say that you don't want a study committee to do that - we have had a bill for the last six years, every year, on distributing needles. This does not do that. It tries to find out . . . and they are out there, supposedly, how you can get a needle, the same needle, whether you are diabetic or whether you are talking about any other situation,

but once you use it, that becomes a lost needle and you can't use it again, syringes too. That is all that this asks for. I think it is well worth a study committee this year to find out if that is available, where it is, how you can use it, what the costs are going to be and whatever it may be to do it. I think it is a finer way to go about it than to say let's pass the bill where you can pass needles out to a group here and a group there. Thank you.

Committee report of inexpedient to legislate is adopted.

SB 645-FN-A, an act relative to congregate housing and making an appropriation therefor. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, SB 645 appropriates \$400,000 for the fiscal year ending June 30, 1997, for the purpose of supporting congregate housing services programs in New Hampshire. This funding is very important as it provides specialized housing to many elderly and incapacitated adults who might otherwise be placed in institutional care. Congregate housing is also a cost-effective alternative to nursing home care. This funding is used to receive federal matching funds and those matching funds will come from the county, state and services fees charged to congregate housing participants. This bill will allow New Hampshire citizens to benefit from all of these services. The committee urges ought to pass.

SENATOR F. KING: Senator Podles, in the analysis it speaks about funds coming from the county or local government, I assume?

SENATOR PODLES: Yes.

SENATOR F. KING: Is that on a voluntary basis or is that on a compulsory basis?

SENATOR PODLES: It has always been this way. I am not sure, Senator, but it has always been this way. There is such a thing as the Cranston-Gonzalez National Affordable Housing Act and the funds come from there. Those are matching funds. So there are three governments. Also the participants have to also contribute a certain percentage, which is about 10 percent of their income.

SENATOR F. KING: My concern would be that if it is going to be some form of a mandated county or local process, then it would be a 28-a issue and I think the fiscal note doesn't address that.

SENATOR PODLES: No. Senator, it has never been a mandate and this will not mandate, but they have always done it. It does affect some of their people and so they are willing to put some money in. I don't know what the percentage is either. I could find out for you.

SENATOR F. KING: Would you believe that for the 20 years I was the county administrator we never put money into congregate housing?

SENATOR PODLES: Wow.

Adopted.

Referred to the Finance Committee (Rule #24).

SB 542-FN, an act relative to license and registration suspensions. Transportation Committee. Vote: 6-1. Ought to pass with amendment. Senator Cohen for the committee.

5012L

Amendment to SB 542-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Mandatory Suspension of Registration. Amend RSA 261:180 by inserting after paragraph I the following new paragraph:

I-a. Notwithstanding the provisions of RSA 261:178, in addition to the penalties specified in paragraph I, a person whose license or privilege to drive has been revoked or suspended for a minimum period of 90 days shall be prohibited from registering in this state any type of vehicle or vessel, the registration of which is required under this title or RSA 215-A or RSA 270 during the period of such revocation or suspension. The provisions of this paragraph shall not apply to point system suspensions.

2 Effective Date. This act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill prohibits a person whose license or privilege to drive has been revoked or suspended for a minimum period of 90 days from registering a boat or any type of motor vehicle, including OHRVs, trucks, or motorcycles, in this state for the period of such revocation or suspension. This provision shall not apply to point system suspensions.

SENATOR COHEN: SB 542 is partially in response to a publication issued in 1990 by the Governor's Task Force on Drunk Driving. It is intended to be an additional safeguard to protect the public. It specifically disallows individuals whose licenses have been suspended or revoked for at least 90 days from registering a vehicle, any vehicle, in their name. This is currently the practice of second offenders. I might add, that this bill largely comes out of the experience of one of my constituents, to address the problem in the future. It does not prevent a family member in a single-vehicle family from receiving a hardship registration to travel back and forth to work; nor is it intended to be retroactive. Only future attempts to register a vehicle will be affected by this legislation. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 608-FN-LOCAL, an act requiring the department of safety to perform a background check to determine if an applicant for a motor vehicle registration is a wanted felon and deleting a waiver provision relating to retention of photo images and social security numbers. Transportation Committee. Vote: 7-0. Inexpedient to legislate. Senator Gordon for the committee.

SENATOR GORDON: Members of the Transportation Committee, I believe, were all in agreement with the intent of SB 608; however, they were concerned about its cost-effectiveness. This bill is very similar to legislation last year which died in a Committee of Conference. In that legislation, the Department of Safety was required to run background checks on all persons applying for driver's licenses. That bill would have cost approximately \$250,000. SB 608 requires background checks on all registrations in the state or anyone who would apply for a registration. The department indicated that there are approximately four times as many people applying for registrations than are applying for licenses; therefore, the estimated cost of this bill, to the state, would be approximately

\$1 million. Given the current budgetary constraints, the committee did not feel as though it was fiscally responsible at this time. The committee recommends this bill as inexpedient to legislate by the committee vote of 7 to 0.

Committee report of inexpedient to legislate is adopted.

SB 628-LOCAL, an act relative to authority over certain accident scenes. Transportation Committee. Vote: 5-2. Ought to pass with amendment. Senator Stawasz for the committee.

4955L

Amendment to SB 628-LOCAL

Amend the bill by replacing section 1 with the following:

1 Medical Personnel Added. RSA 154:8 is repealed and reenacted to read as follows:

154:8 Duties at Scene of Fires, Accidents, Medical or Other Emergencies. The fire chief, or in the fire chief's absence the engineer, fire officer, or medical personnel shall be the incident commander and shall have the direction of all apparatus and other equipment, and the government and direction of all persons and proceedings relating to any fire, accident, or medical or other emergency, and the other firewards or engineers shall aid as assistants. Paramedics or other appropriate medical personnel shall have direction and authority over injured persons until such injured persons are removed from the scene within the framework of the established incident command.

AMENDED ANALYSIS

This bill grants paramedics or other appropriate medical personnel at the scene of a fire or other emergency authority over injured persons until such injured persons are removed from the scene. The bill also clarifies the procedure of incident command at fires, accidents, medical or other emergencies.

SENATOR STAWASZ: SB 628 grants medical personnel at the scene of an emergency situation authority over injured persons until they are removed from the scene. The bill is intended to support the role of medical personnel who are the most aware of the treatment that a patient may require. The committee amendment clarifies the procedures for incident command in emergencies. It is a widely accepted procedure where the chief of the fire department is the incident commander or whomever his subordinate is at the scene. The Transportation Committee recommends the bill as ought to pass as amended.

SENATOR COLANTUONO: Senator Stawasz, if there is a motor vehicle accident, the police respond, there is some question about drunk driving or some other offense, and the driver is the injured person, does this mean that the paramedic has prior claim to that injured person and authority over that person as against a police officer who might want to question him or do some tests or something like that and the paramedic could then deny the police officer his investigative procedures?

SENATOR STAWASZ: Senator Colantuono, once the call at 911 is received for an injured party, the role of the medical personnel in responding to the scene is to treat and transport. In that situation in the field, which I have personally been involved in many times, the officer will either accompany in the ambulance or follow the ambulance to the hos-

pital where the appropriate blood tests will be drawn by medical personnel. This is in no way meant to interfere with a police officer's investigative ability, but to put life as the first priority of all the emergency personnel on the scene.

SENATOR COLANTUONO: Thank you.

SENATOR SHAHEEN: Senator Stawasz, can you tell me what the current status is in terms of who has control at an accident scene and how this bill would change that relationship?

SENATOR STAWASZ: Yes, Senator Shaheen. The current status of the bill does recognize the fact that we have always had fire and police response. The statutes have never included and/or medical emergency as part of what they are responding to, and the providers of medical emergency services have not been included in that chain of command. Over the years, we have evolved from hearses with the little red light to very sophisticated paramedic services and this establishes them in recognizing that the fire chief, the fire officer, emergency medical personnel, on down the line of incident command, so I have included that branch of emergency response in the statute in the incident command system.

SENATOR SHAHEEN: I am not sure that I understand exactly what you are saying. If an accident were to happen today, and there would be someone injured, who is in charge?

SENATOR STAWASZ: Currently, the fire chief is in charge. This bill just expands the fire chief being in charge to include emergency medical personnel under his chain of command and what we in the fire service call the incident command system. It may be, Senator Shaheen, that it is the scene of a medical emergency and there is no fire chief present, in which case this legislation would specify the medical person is in that chain of command as the incident commander.

SENATOR SHAHEEN: Can you tell me if fire chiefs took any position on this bill and what their position was?

SENATOR STAWASZ: Yes, Senator Shaheen, one of your fire chiefs came over and said, "Ain't no way he's listening to nobody; he's in charge." I was quite unimpressed with his viewpoint, after my 20 years in the fire service, that he would fail to consider life as the first thing over a battle of who was in charge.

Recess.

Out of recess.

Senator Barnes moved to have **SB 628-LOCAL**, an act relative to authority over certain accident scenes, laid on the table.

Adopted.

LAID ON THE TABLE

SB 628-LOCAL, an act relative to authority over certain accident scenes.

SB 646-FN, an act allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence and permitting certain prisoners to be sentenced to substance abuse treatment centers. Judiciary Committee. Vote: 5-1. Inexpedient to legislate. Senator Lovejoy for the committee.

Senator J. King moved to have **SB 646-FN**, an act allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence and permitting certain prisoners to be sentenced to substance abuse treatment centers, laid on the table.

Adopted.

LAIID ON THE TABLE

SB 646-FN, an act allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence and permitting certain prisoners to be sentenced to substance abuse treatment centers.

SB 594, an act prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency. Public Affairs Committee. Vote: 4-1. Ought to pass with amendment. Senator Rubens for the committee.

4990L

Amendment to SB 594

Amend the title of the bill by replacing it with the following:

AN ACT
placing limitations on warrant
articles at special meetings.

Amend the bill by replacing all after the enacting clause with the following:

1 Special Town Meetings. Amend RSA 31:5, I, to read as follows:

I. No money shall be raised or appropriated or shall any appropriation previously made be reduced or rescinded at any special town meeting except by vote by ballot, nor unless the ballots cast at such meeting shall be equal in number to at least 1/2 of the number of legal voters borne on the checklist of the town at the annual or biennial election next preceding such special meeting; and such checklist shall be used at any meeting upon the request of 10 legal voters of the town. This section shall not apply to money to be raised for the public defense or any military purpose in time of war. In case an emergency arises requiring an immediate expenditure of money, the selectmen may petition the superior court for permission to hold a special town meeting which, if granted, shall give said meeting the same authority as that of an annual town meeting. ***"Emergency" means a situation in which a service to the community would cease. Once a warrant article has been voted on by the legislative body at a special town meeting and the meeting has been adjourned, the subject matter of the warrant article shall not be put before the legislative body again until the next annual town meeting.***

2 Special Village District Meetings. Amend RSA 52:14 to read as follows:

52:14 Special Meetings.

The commissioners when calling a special district meeting shall, within one week after posting the warrant therefor, cause a copy of said warrant to be published once in a newspaper of general circulation in said district. ***Once a warrant article has been voted on by the legislative body at a special district meeting and the meeting has been adjourned, the subject matter of the warrant article shall not be put before the legislative body again until the next annual district meeting.***

3 Special School District Meetings. Amend RSA 197:3, I, to read as follows:

I. No school district at any special meeting shall raise or appropriate money nor reduce or rescind any appropriation made at a previous meeting, unless the vote thereon is by ballot, nor unless the ballots cast at such meeting shall be equal in number to at least 1/2 of the number of voters of such district entitled to vote at the regular meeting next preceding such special meeting; and, if a checklist was used at the last preceding regular meeting, the same shall be used to ascertain the number of legal voters in said district; and such checklist, corrected according to law, may be used at such special meeting upon request of 10 legal voters of the district. In case an emergency arises requiring an immediate expenditure of money, the school board may petition the superior court for permission to hold a special district meeting, which, if granted, shall give said district meeting the same authority as an annual district meeting. *“Emergency” means a situation in which a service to the community would cease. Once a warrant article has been voted on by the legislative body at a special school district meeting and the meeting has been adjourned, the subject matter of the warrant article shall not be put before the legislative body again until the next annual school district meeting.*

4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill prohibits the same subject matter from being voted on at more than one special town, district or school district meeting between annual town, district or school district meetings.

Senator Rubens moved to have **SB 594**, an act prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency, laid on the table.

Adopted.

LAIID ON THE TABLE

SB 594, an act prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendment to the following entitled House Bill sent down from the Senate:

HB 301, prohibiting certain evidence in sexual assault cases.

RESOLUTION

Senator Barnes moved that the rules of the Senate be so far suspended to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

ANNOUNCEMENTS

Third Reading and Final Passage

SB 504, an act relative to the legal killing of certain dogs.

SB 510, authorizing town moderators to call a secret ballot.

SB 515, an act relative to venue for arraignment and bail of defaulters.

SB 527, an act establishing a committee to study methods of promoting competition among water utilities.

SB 530, an act authorizing the court to suspend the motor vehicle driver's license of a person convicted of criminal mischief.

SB 537, an act relative to state contracts for consultants.

SB 541-FN-A, an act exempting the healthy kids corporation from the insurance premium tax.

SB 550, an act allowing a certain town employee to buy back time in the New Hampshire retirement system.

SB 552, an act relative to life, accident, and health insurance, nonprofit health service corporations, and health maintenance organizations.

SB 559-FN-LOCAL, an act declaring proposed public collective bargaining agreements to be public records subject to inspection.

SB 573, an act relative to the issuance by courts of telephonic emergency temporary orders.

SB 588, an act relative to tenant eviction proceedings.

SB 590, establishing a committee to study the feasibility of requiring insurers to cover early intervention services.

SB 619, an act relative to the voluntary administration of estates.

SB 623, an act to provide an optional retirement program for employees of the department of regional community-technical colleges.

SB 627, an act relative to insurance coverage for childbirth.

SB 629, an act relative to testamentary additions to trusts.

Senator Barnes moved that the Senate be in recess for the sole purpose of introducing legislation, referring bills to committee, and scheduling hearings and that we be in recess until Wednesday, March 6, 1996, at 10:00 a.m.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 1110-FN, establishing a study committee relative to electronic information in state government.

HB 1112, establishing a committee to study the investment practices of the New Hampshire retirement system.

HB 1126-FN, relative to the comprehensive shoreland protection act.

HB 1129, relative to the Laconia airport authority and relative to the Manchester airport.

HB 1132, reinstating the charter of Polar Graphics, Inc.

HB 1144, relative to criminal threatening.

HB 1180, relative to the rulemaking authority of the commissioner of transportation relating to the turnpike system.

HB 1189-FN, changing the fee charged by towns and cities for uncollectible checks.

HB 1239-FN, relative to the regulatory authority of the state board of auctioneers and professional standards for auctioneers.

HB 1287, allowing federal income tax withholding from unemployment compensation.

HB 1301, relative to adoption procedures.

HB 1333-FN-L, relative to public assistance for households containing persons with disabilities.

HB 1404, lowering the blood alcohol concentration for aggravated driving while intoxicated from 0.20 to 0.16.

HB 1426, allowing the acquisition of certain easements near newly-constructed limited access highways.

HB 1434, establishing a committee to study the issues surrounding the definition of "facility" for the purposes of eligibility for property tax exemptions for water and air pollution control facilities.

HB 1442, relative to children's services.

HB 1540-FN-L, changing the school foundation aid distribution formula.

HB 1555-FN-A, authorizing the commissioner of the department of environmental services to impose administrative fines for certain environmental violations and continually appropriating certain fine revenues.

HB 1562-FN-L, relative to preventing downshifting of welfare costs to cities and towns.

HB 1564-FN, relative to records of adjudicatory hearings in cases involving child abuse or neglect, children in need of services, and delinquent children; de novo hearings in cases involving child abuse or neglect and children in need of services; and the review panel for dispositional orders on delinquency cases.

HB 1576-FN, relative to extended detoxification of pregnant and postpartum heroin addicts utilizing the controlled drug methadone.

HB 1597, changing the wetlands board to the wetlands council.

HB 1104, relative to illegal night hunting.

HB 1135-L, creating a penalty for the unauthorized posting of property.

HB 1151, relative to penalties for persons convicted of class B misdemeanors and violations and relative to parole revocation hearings.

HB 1228-FN, requiring the executive director of the department of fish and game to provide copies of fish and game statutes to the members of the house wildlife and marine resources committee and the senate fish and game/recreation committee.

HB 1339-FN-A, to study the feasibility of an alternative highway for Route 3 in Franklin.

HB 1341-FN-A-L, relative to a corridor study of Route 101.

HB 1538-FN, restricting rent increases by manufactured housing park owners and operators after notice of eviction has been issued to tenants because of condemnation or change of use of the manufactured housing park.

HB 1539-FN-L, relative to fees for group dog licenses.

HB 1593-FN, establishing a joint legislative committee to study the state investigation of the late John C. Fairbanks.

HB 1621, authorizing the executive director of the fish and game department to conduct wildlife population reductions.

RESOLUTION

INTRODUCTION OF HOUSE BILLS

Senator Barnes offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 1110 - 1621 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 1110-FN, establishing a study committee relative to electronic information in state government. Executive Departments and Administration Committee.

HB 1112, establishing a committee to study the investment practices of the New Hampshire retirement system. Insurance Committee.

HB 1126-FN, relative to the comprehensive shoreland protection act. Environment Committee.

HB 1129, relative to the Laconia airport authority and relative to the Manchester airport. Transportation Committee.

HB 1132, reinstating the charter of Polar Graphics, Inc. Public Affairs Committee.

HB 1144, relative to criminal threatening. Judiciary Committee.

HB 1180, relative to the rulemaking authority of the commissioner of transportation relating to the turnpike system. Executive Departments and Administration Committee.

HB 1189-FN, changing the fee charged by towns and cities for uncollectible checks. Public Affairs Committee.

HB 1239-FN, relative to the regulatory authority of the state board of auctioneers and professional standards for auctioneers. Executive Departments and Administration Committee.

HB 1287, allowing federal income tax withholding from unemployment compensation. Ways and Means Committee.

HB 1301, relative to adoption procedures. Judiciary Committee.

HB 1333-FN-L, relative to public assistance for households containing persons with disabilities. Public Institutions, Health and Human Services Committee.

HB 1404, lowering the blood alcohol concentration for aggravated driving while intoxicated from 0.20 to 0.16. Judiciary Committee.

HB 1426, allowing the acquisition of certain easements near newly-constructed limited access highways. Transportation Committee.

HB 1434, establishing a committee to study the issues surrounding the definition of "facility" for the purposes of eligibility for property tax exemptions for water and air pollution control facilities. Environment Committee.

HB 1442, relative to children's services. Public Institutions, Health and Human Services Committee.

HB 1540-FN-L, changing the school foundation aid distribution formula. Education Committee.

HB 1555-FN-A, authorizing the commissioner of the department of environmental services to impose administrative fines for certain environmental violations and continually appropriating certain fine revenues. Environment Committee.

HB 1562-FN-L, relative to preventing downshifting of welfare costs to cities and towns. Public Institutions, Health and Human Services Committee.

HB 1564-FN, relative to records of adjudicatory hearings in cases involving child abuse or neglect, children in need of services, and delinquent children; de novo hearings in cases involving child abuse or neglect and children in need of services; and the review panel for dispositional orders on delinquency cases. Public Institutions, Health and Human Services Committee.

HB 1576-FN, relative to extended detoxification of pregnant and post-partum heroin addicts utilizing the controlled drug methadone. Public Institutions, Health and Human Services Committee.

HB 1597, changing the wetlands board to the wetlands council. Environment Committee.

HB 1104, relative to illegal night hunting. Fish and Game/Recreation Committee.

HB 1135-L, creating a penalty for the unauthorized posting of property. Fish and Game/Recreation Committee.

HB 1151, relative to penalties for persons convicted of class B misdemeanors and violations and relative to parole revocation hearings. Judiciary Committee.

HB 1228-FN, requiring the executive director of the department of fish and game to provide copies of fish and game statutes to the members of the house wildlife and marine resources committee and the senate fish and game/recreation committee. Fish and Game/Recreation Committee.

HB 1339-FN-A, to study the feasibility of an alternative highway for Route 3 in Franklin. Transportation Committee.

HB 1341-FN-A-L, relative to a corridor study of Route 101. Transportation Committee.

HB 1538-FN, restricting rent increases by manufactured housing park owners and operators after notice of eviction has been issued to tenants because of condemnation or change of use of the manufactured housing park. Public Affairs Committee.

HB 1539-FN-L, relative to fees for group dog licenses. Public Affairs Committee.

HB 1593-FN, establishing a joint legislative committee to study the state investigation of the late John C. Fairbanks. Judiciary Committee.

HB 1621, authorizing the executive director of the fish and game department to conduct wildlife population reductions. Fish and Game/Recreation Committee.

Recess.

Out of Recess.**HOUSE MESSAGE**

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 1107, relative to the operation of OHRVs.

HB 1113, relative to the order of names on state primary election ballots.

HB 1131-FN-A, relative to the Women's War Memorial in Arlington, Virginia, and making an appropriation therefor.

HB 1142, relative to disclosure language contained in agreements to locate abandoned property.

HB 1152, relative to periodic payments of judgments by civil defendants.

HB 1155, relative to the terms for alternate members of zoning boards of adjustment.

HB 1159, reducing the mandatory minimum sentence for habitual offenders convicted of unlawfully operating a motor vehicle.

HB 1161, relative to the information required on the state primary and state general election ballots, voter checklists of cities and towns, candidate and party nominations, nomination papers, and absentee ballots.

HB 1167, relative to voluntary limits on campaign expenditures.

HB 1171-FN, relative to fees for number plates.

HB 1181, establishing a committee to study issues regarding the administrative practices of boards which regulate occupations and professions in New Hampshire.

HB 1194, clarifying the definition of tenancy to exclude campgrounds and camping parks recreational vehicles used at motorsport racing facilities and exempting from certain aspects of the laws regulating campgrounds and camping parks.

HB 1196, relative to the statute of limitations on claims under the consumer protection statutes.

HB 1224-FN, authorizing the state to acquire certain property adjacent to Black Mountain State Forest.

HB 1238, relative to the use of the official ballot for changing the manner in which planning board members are selected in towns.

HB 1244-FN, relative to aeronautical carriers.

HB 1259, allowing independent professionals to be owners of professional corporations or professional limited liability companies.

HB 1264, restricting the sale of certain items.

HB 1265, relative to payment of utilities by tenants of manufactured housing parks.

HB 1266, relative to disclosure of fees charged by owners and operators of electronic customer service terminals for use of such terminals.

HB 1268, relative to the method for repealing a zoning ordinance and defining a person aggrieved in an appeal from a decision on motion for rehearing.

HB 1285, prohibiting sobriety check points.

HB 1302, establishing a committee to study methods of improving telecommunication services to the North Country and other rural areas.

HB 1322, relative to the adoption of the New Hampshire hospital master plan of 1994.

HB 1351, relative to the sale of certain state-owned property at the Franklin Pierce homestead.

HB 1403, relative to the charges for driving a motor vehicle or operating off highway recreational vehicles under the influence of drugs or liquor, or driving with excess alcohol concentration.

HB 1406-FN-A, authorizing the commissioner of the department of corrections to transfer funds within the department of corrections budget for funding for the pathways program for the fiscal year 1997.

HB 1455, relative to the permissible fireworks review committee.

HB 1488, relative to the New Hampshire bankruptcy laws.

HB 1496, permitting an authorized agent of a veterinarian to dispense non-controlled prescription drugs.

HB 1508-FN, requiring the department of safety to keep drivers' records confidential except for certain reasons.

HB 1527, proclaiming the calendar week of May 15 of each year as Law Enforcement Memorial Week.

HB 1580-L, allowing landowners to convey discretionary easements in certain land to the municipality in which the land is located and relative to taxation of land subject to such discretionary easements.

HB 1600, extending the reporting date of the paperless title system study committee.

HB 1601, extending the reporting date for the pet overpopulation committee.

HB 1604-FN, relative to licensing of dogs.

HB 1627-L, authorizing the Lamprey regional cooperative to issue bonds and notes.

RESOLUTION

INTRODUCTION OF HOUSE BILLS

Senator Barnes offered the following resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 1107 through 1627 Local, shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 1107, relative to the operation of OHRVs. Transportation Committee

HB 1113, relative to the order of names on state primary election ballots. Public Affairs Committee

HB 1131-FN-A, relative to the Women's War Memorial in Arlington, Virginia, and making an appropriation therefor. Public Affairs Committee

HB 1142, relative to disclosure language contained in agreements to locate abandoned property. Public Affairs Committee

HB 1152, relative to periodic payments of judgments by civil defendants. Judiciary Committee

HB 1155, relative to the terms for alternate members of zoning boards of adjustment. Public Affairs Committee

HB 1159, reducing the mandatory minimum sentence for habitual offenders convicted of unlawfully operating a motor vehicle. Judiciary Committee

HB 1161, relative to the information required on the state primary and state general election ballots, voter checklists of cities and towns, candidate and party nominations, nomination papers, and absentee ballots. Public Affairs Committee

HB 1167, relative to voluntary limits on campaign expenditures. Public Affairs Committee

HB 1171-FN, relative to fees for number plates. Transportation Committee

HB 1181, establishing a committee to study issues regarding the administrative practices of boards which regulate occupations and professions in New Hampshire. Executive Departments and Administration Committee

HB 1194, clarifying the definition of tenancy to exclude campgrounds and camping parks recreational vehicles used at motorsport racing facilities and exempting from certain aspects of the laws regulating campgrounds and camping parks. Fish and Game/Recreation Committee

HB 1196, relative to the statute of limitations on claims under the consumer protection statutes. Judiciary Committee

HB 1224-FN, authorizing the state to acquire certain property adjacent to Black Mountain State Forest. Fish and Game/Recreation Committee

HB 1238, relative to the use of the official ballot for changing the manner in which planning board members are selected in towns. Public Affairs Committee

HB 1244-FN, relative to aeronautical carriers. Transportation Committee

HB 1259, allowing independent professionals to be owners of professional corporations or professional limited liability companies. Executive Departments and Administration Committee

HB 1264, restricting the sale of certain items. Public Institutions, Health and Human Services Committee

HB 1265, relative to payment of utilities by tenants of manufactured housing parks. Public Affairs Committee

HB 1266, relative to disclosure of fees charged by owners and operators of electronic customer service terminals for use of such terminals. Executive Departments and Administration Committee

HB 1268, relative to the method for repealing a zoning ordinance and defining a person aggrieved in an appeal from a decision on motion for rehearing. Executive Departments and Administration Committee

HB 1285, prohibiting sobriety check points. Transportation Committee

HB 1302, establishing a committee to study methods of improving telecommunication services to the North Country and other rural areas. Economic Development Committee

HB 1322, relative to the adoption of the New Hampshire hospital master plan of 1994. Public Institutions, Health and Human Services Committee

HB 1351, relative to the sale of certain state-owned property at the Franklin Pierce homestead. Public Affairs Committee

HB 1403, relative to the charges for driving a motor vehicle or operating off highway recreational vehicles under the influence of drugs or liquor, or driving with excess alcohol concentration. Judiciary Committee

HB 1406-FN-A, authorizing the commissioner of the department of corrections to transfer funds within the department of corrections budget for funding for the pathways program for the fiscal year 1997. Judiciary Committee

HB 1455, relative to the permissible fireworks review committee. Executive Departments and Administration Committee

HB 1488, relative to the New Hampshire bankruptcy laws. Judiciary Committee

HB 1496, permitting an authorized agent of a veterinarian to dispense non-controlled prescription drugs. Fish and Game/Recreation Committee

HB 1508-FN, requiring the department of safety to keep drivers' records confidential except for certain reasons. Transportation Committee

HB 1527, proclaiming the calendar week of May 15 of each year as Law Enforcement Memorial Week. Transportation Committee

HB 1580-L, allowing landowners to convey discretionary easements in certain land to the municipality in which the land is located and relative to taxation of land subject to such discretionary easements. Fish and Game/Recreation Committee

HB 1600, extending the reporting date of the paperless title system study committee. Transportation Committee

HB 1601, extending the reporting date for the pet overpopulation committee. Fish and Game/Recreation Committee

HB 1604-FN, relative to licensing of dogs. Fish and Game/Recreation Committee

HB 1627-L, authorizing the Lamprey regional cooperative to issue bonds and notes. Education Committee

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 11-L, an act relative to the application of local land use regulations to governmental units.

and the speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Thomas Behrens
Gene Chandler
Merle Schotanus
Paul McGuirk

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 157-FN-L, placing probation-parole officers in group II in the New Hampshire retirement system.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 157-FN-L, placing probation-parole officers in group II in the New Hampshire retirement system.

Senator Danaïs moved concurrence.

NOTICE OF RECONSIDERATION

Senator Colantuono served notice of reconsideration on **SB 504**, relative to the legal killing of certain dogs.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

HB 301, an act prohibiting certain evidence in sexual assault cases.

HB 275, an act encouraging businesses to conduct environmental self-audits.

Senator Currier moved adoption.

Adopted.

MOTION TO VACATE

Senator Rodeschin moved to vacate **HB 1266**, relative to disclosure of fees charged by owners and operators of electronic customer service terminals for use of such terminals, from Executive Departments and Administration Committee to Banks Committee.

Adopted.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Wednesday, March 6, 1996, at 10:00 a.m.

Adopted.

LATE SESSION

Senator J. King moved that the business of the day being completed, the Senate now adjourn until Wednesday, March 6, 1996, at 10:00 a.m.

Adopted.

Adjournment.

March 6, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

Political courage is that capacity to say no to the clamoring voices of popular opinion when they demand a new way while the old way is still better. Political wisdom involves being able to perceive when it is best to leave behind the old way of doing things and to find a new way - even and especially in the face of opposition. Please be brave and please be wise for us today.

O Lord, cross over this day into the life of each person here and infuse each one's opinions and convictions and actions with the ironclad partisanship of Your care for them and for us. May they be useful to You today so that they can be useful to us.

Amen

Senator Blaisdell led the Pledge of Allegiance.

INTRODUCTION OF GUESTS COMMITTEE REPORTS

SB 640, an act relative to acquisitions and mergers involving national banks. Banks Committee. Vote: 5-0. Ought to pass with amendment. Senator Fraser for the committee.

5191L

Amendment to SB 640

Amend the title of the bill by replacing it with the following:

AN ACT

relative to acquisitions and mergers involving national banks and
relative to trust activities conducted in New Hampshire by
out-of-state banks and conducted out-of-state
by New Hampshire banks.

Amend the bill by replacing all after the enacting clause with the following:

1 Interstate Acquisitions of Banks. Amend RSA 384:58, II to read as follows:

II. Except as otherwise provided in this paragraph, an out-of-state bank holding company may directly or indirectly acquire a New Hampshire bank **or a national bank having its principal place of business in New Hampshire** which has been in existence for at least 5 years. For purposes of this section, an out-of-state bank holding company may organize, and be the sole incorporator of, a New Hampshire bank which is chartered under applicable New Hampshire law solely for the purpose of acquiring control of, or acquiring all or substantially all of the assets and liabilities of, an existing New Hampshire bank **or an existing national bank having its principal place of business in New Hampshire**, provided that such newly chartered bank does not open for business prior to the consummation of the acquisition. Such newly chartered bank shall be deemed to have been in existence for the same period of time as the bank to be acquired. No acquisition shall be permitted which will result in a violation of the 20 percent deposit limitation contained in RSA 384-B:3(2), except as otherwise permitted under RSA 384-B:3 and RSA 384-B:8.

2 Interstate Mergers of Banks. Amend RSA 384:59, I to read as follows:

I. Unless otherwise provided in this paragraph, a New Hampshire bank **or a national bank having its principal place of business in New Hampshire** may merge with any out-of-state bank in accordance with applicable laws and regulations of New Hampshire and any other **applicable state and federal authority**. If the resulting bank is an out-of-state bank, the New Hampshire bank **or national bank having its principal place of business in New Hampshire** shall be required to be in existence for at least 5 years in order to be eligible to merge. No merger shall be permitted which will result in a violation of the 20 percent deposit limitation contained in RSA 384-B:2, I and II or RSA 384-B:3(2), except as otherwise permitted under RSA 384-B:3 and RSA 384-B:8.

3 Prior Mergers. Amend RSA 384:59, V to read as follows:

V. If the resulting bank is an out-of-state bank, it shall have all the powers held by the bank with which it merged under applicable New Hampshire laws and regulations, subject to the duties and restrictions thereof. The branch or branches **located in New Hampshire** of an out-of-state bank [located in New Hampshire], **other than a national bank or federal savings association**, shall be regulated by the bank commissioner as if such branch or branches comprised a New Hampshire bank [and]. **Any out-of-state bank having a branch or branches located in New Hampshire** shall comply with applicable New Hampshire laws and regulations in the conduct of its banking business in New Hampshire. No branch of an out-of-state bank shall be permitted to engage in any activity not permissible for a New Hampshire bank. No out-of-state bank shall be permitted to establish a new branch or acquire a branch from another bank in New Hampshire unless such out-of-state bank has previously merged with a New Hampshire bank **or a national bank having its principal place of business in New Hampshire**. Notwithstanding the foregoing, if the out-of-state bank is a national bank or a federal **savings** association, it shall comply with New Hampshire law to the maximum extent allowed under federal law.

4 New Section; Trust Activities by Out-of-State Banks. Amend RSA 384 by inserting after section 63 the following new section:

384:64 Trust Activities.

I. Notwithstanding anything to the contrary contained in this subdivision, an out-of-state bank, which is permitted by the federal or state regulatory authority that issued its charter to exercise trust powers either through a trust department or as a limited purpose institution organized for the sole purpose of conducting trust activities, may exercise trust powers in New Hampshire in the same manner as is authorized for a New Hampshire bank under RSA 390:13, and may establish one or more places of business in this state for the conduct of trust activities, provided that:

(a) The out-of-state bank is a direct or indirect subsidiary of a bank holding company that has a direct or indirect bank subsidiary that has an office in this state at which deposits are accepted; or

(b) The law of the state in which the main office of the out-of-state bank is located would allow a New Hampshire bank to establish one or more places of business in such state for the conduct of trust activities.

II. As a condition precedent to the right of an out-of-state bank to act in the capacities specified in paragraph I, the out-of-state bank shall file a stipulation with the department of revenue administration, in which it shall agree that any funds, securities, or property held by it under any

appointment under this section shall be taxed in the same manner and to the same extent as funds of the same character held by a New Hampshire bank.

III. An out-of-state bank seeking to act in the capacities specified in paragraph I shall apply to the bank commissioner for approval to establish a place of business in this state pursuant to this section. The out-of-state bank shall pay the same application fee to establish a place or places of business in this state as a New Hampshire bank would pay under RSA 384-B:2 to establish a branch or branches in this state. The bank commissioner may conduct a public hearing on the application of the out-of-state bank. If the bank commissioner finds that the out-of-state bank is adequately staffed, equipped, and able to furnish trust services in accordance with applicable laws regulating the activities of fiduciaries in this state, the bank commissioner shall approve the application in writing with such conditions as the bank commissioner deems appropriate. The bank commissioner may examine the trust activities of the out-of-state bank any time the bank commissioner deems necessary to ensure its continued safety and soundness, ability to furnish trust services, and compliance with the laws of this state. The out-of-state bank shall make its books and records pertaining to its trust activities in this state available to the bank commissioner for such examination and shall pay the same cost for such examination as is assessed to New Hampshire banks for similar examinations.

IV. A New Hampshire bank is authorized to conduct trust activities in any other state and to establish a place or places of business in any other state for the purpose of conducting trust activities, in accordance with the laws of such other state. A New Hampshire bank shall apply to the bank commissioner for approval to establish a place or places of business in any other state pursuant to this section. The New Hampshire bank shall pay the same application fee to establish a place or places of business in such other state as a New Hampshire bank would pay under RSA 384-B:2 to establish a branch or branches in this state. The bank commissioner may conduct a public hearing on the application of the New Hampshire bank. If the bank commissioner finds that the New Hampshire bank is adequately staffed, equipped, and able to furnish trust services in accordance with applicable laws regulating the activities of fiduciaries in such other state, the bank commissioner shall approve the application in writing with such conditions as the bank commissioner deems appropriate. The bank commissioner may examine the out-of-state trust activities of the New Hampshire bank at any time the commissioner deems necessary to ensure its continued safety and soundness, ability to furnish trust services, and compliance with the laws of such other state or states. The New Hampshire bank shall make its books and records pertaining to its trust activities in any other state available to the bank commissioner for such examination and shall pay for the cost of such examination.

V. The bank commissioner may adopt rules, pursuant to RSA 541-A, to carry out the provisions of this section.

5 Effective Date.

I. Sections 2 and 3 of this act shall take effect June 1, 1997.

II. Section 4 of this act shall take effect 60 days after its passage.

III. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows national banks having their principal place of business in New Hampshire to be participants in interstate acquisitions and mergers.

The bill also authorizes out-of-state banks to establish places of business in New Hampshire for the conduct of trust activities, under certain conditions. It also authorizes New Hampshire banks to establish places of business in other states for the purpose of conducting trust activities, under certain conditions.

SENATOR FRASER: SB 640, as amended, closes a loophole that was not addressed in the Riegle-Neal legislation of the last session. This bill is designed to remove sections of the 1995 law that left open for interpretation the status of national banks and interstate acquisitions and mergers. Additionally, the amendment to 640 brings New Hampshire statutes in line to reflect the provisions of the Riegle-Neal legislation passed last year, which specifies that unless a state has, in statute, a reciprocal agreement on trust activities Vermont would not do business with that state. The Banks Committee urges adoption of a report that was unanimously passed.

Amendment adopted.

Ordered to third reading.

SB 521-LOCAL, an act establishing a civic center commission. Economic Development Committee. Vote: 5-0. Ought to pass with amendment. Senator Danaïs for the committee.

5174L

Amendment to SB 521-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a civic center commission to operate a civic and trade center in the city of Concord.

Amend the bill by replacing all after the enacting clause with the following:

1 Declaration of Need and Purpose. It is hereby declared that there is a need for the development of a civic and trade center in the city of Concord to foster economic development, to insure the continued growth and prosperity of the state and of the cities and towns within the state, and to promote the general welfare of all its citizens. It is the purpose of this act to establish and authorize the New Hampshire civic center commission to foster and encourage the development of a civic and trade center in the city of Concord. It is further declared that the actions of the New Hampshire civic center commission in promoting and developing a civic and trade center as provided in this act is a public purpose and shall be regarded as performing an essential governmental function in carrying out the provisions of this act.

2 Civic Center Commission Established.

I. There is hereby established the New Hampshire civic center commission, hereinafter referred to as the commission, consisting of not less than 5 and not more than 29 members, a simple majority of whom shall be appointed by the Concord city council and the remainder of whom shall be appointed by the then existing commission members, and each of whom shall serve for a term of 3 years; provided, however, that the initial appointees shall serve for terms of 1, 2, and 3 years, and the initial members who are not appointed by the city council shall be appointed by the New Hampshire Civic Center Commission as currently organized under RSA 292. The commission shall annually designate one of its members to serve as chairperson. Vacancies in the membership of the

commission shall be filled by the city council for the balance, if any, of the unexpired term. After appointment of the initial commission, the members shall determine the size of the commission within the limits set forth in this section. In appointing members, the following persons shall be given consideration in addition to other persons deemed qualified to serve on the commission: persons who are involved in arranging for the holding of meetings, conferences, and other functions held by state government and business, professional, and other organizations; and persons who have professional expertise and experience that will directly assist the commission in carrying out its functions; persons who have been recommended by the cities and towns in the area most directly served by the commission; and persons who are elected or appointed officials then serving in government in Concord and Merrimack county, New Hampshire.

II. Commission members shall not obtain any pecuniary benefit or interest in any action or activity of the commission or civic center, and shall not use their office for personal gain or act in a manner contrary to the public interest.

3 Powers of Commission. The commission shall carry out the powers granted in section 7 of this act. In furtherance of its objectives, the commission shall adopt rules, regulations, and policies for the conduct of its business and meetings and the carrying out of its powers and duties under this act. The commission shall make an annual report to the city council. The commission shall not have the power to establish, own, or operate a civic or trade center outside of the city of Concord.

4 Application of Receipts. All receipts from the operation of the civic and trade center and any of its facilities shall be kept by the commission for the purpose of managing, operating, promoting, repairing, and improving the civic and trade center; provided, however, that the commission may expend such portion of any earned surplus as it deems appropriate for the purpose of promoting economic development or making payments in lieu of taxes.

5 Tax Exemption and Payments in Lieu of Taxes. The property of the commission is declared to be public property used for essential public and governmental purposes or functions. Such property and the commission shall be exempt from all taxes and special assessments of the state or any political subdivision thereof; provided, however, that in lieu of such taxes the commission may agree to make such payments to the state or any political subdivision of the state as the commission deems appropriate.

6 City Appropriation. The resolution passed by the city council of the city of Concord on June 19, 1995, appropriating \$630,000 in connection with the civic and trade center project, is hereby ratified in all respects. Any debt incurred by the city under that resolution shall not be subject to any statutory debt limit but shall otherwise be subject to the provisions of RSA 33. In recognition of the anticipated benefits to the economy and general welfare of the city, the city, acting by its city manager, is further authorized to transfer to the commission for the purposes of this act all or any portion of the property acquired with the funds appropriated under that resolution, subject to any conditions or restrictions that may be imposed by the city council. The city shall not appropriate any other funds for the construction or operation of the civic and trade center or incur or guarantee any other debt for or on behalf of the commission.

7 Powers Granted to the Commission. As provided in section 3 of this act, the commission shall have all powers necessary or convenient to

carry out and effectuate the purposes and provisions of this act, including, without limiting the generality of the foregoing, the power to:

I. Enter into contracts, arrangements, and agreements with other persons in all matters necessary or convenient to the operation of this act including, without limiting the generality of the foregoing, leases of the facilities to be constructed and operated hereunder, contracts for planning, management, administration, and operation of the facilities to be constructed pursuant to this act, and execution and delivery of instruments necessary or convenient to the exercise of its powers under this act.

II. Obtain insurance and enter into agreements of indemnification necessary or convenient to the exercise of its powers under this act.

III. Establish, adjust, collect, and abate charges for services, facilities, and commodities furnished or supplied by it.

IV. Acquire and take and hold title in its own name, by purchase, lease, lease-purchase, sale and leaseback, mortgage, exchange, gift or otherwise, or to obtain options for the acquisition of, and to dispose of, any property, real or personal, improved or unimproved, tangible or intangible, or any interest therein.

V. Maintain, repair, operate, enlarge, and improve a civic and trade center and facilities incidental and related thereto, to investigate, design, construct and acquire improvements and additions to such civic and trade center; engage in activities, programs, and projects on its own behalf or jointly with other public or private entities; and provide for the cost of such activities from grants, the proceeds of bonds or notes issued therefor, or from other revenues available to it.

VI. Do all things that may be done by a corporation existing under RSA 292.

8 Applicability. This act shall not be construed as a restriction or limitation upon any powers which the commission may otherwise have under laws of the state, and this act is cumulative to such powers. This act does and shall be construed to provide a completed, additional, and alternative method for the doing of the things authorized in said act and shall be regarded as supplemental and additional to powers conferred by other laws.

9 Exemption From RSA 541-A. The commission shall be exempt from the provisions of RSA 541-A and may adopt rules in accordance with its own procedures. The commission shall file in the office of legislative services a copy of all existing rules adopted by the commission. Any rule adopted after the effective date of this act or any amendment or repeal of any existing rule shall be filed in the office of legislative services with 7 days of adoption, amendment or repeal.

10 Obligations of Commission. All obligations incurred by the commission, whether arising from bonds, contracts or otherwise, shall be corporate obligations of the commission and not general obligations of the state, the city of Concord, or any political subdivision thereof.

11 Limitation of Personal Liability. Neither the members of the commission nor any officer or employee of the commission shall be personally liable in ordinary negligence. The commission shall indemnify a board member or officer of the commission for expenses related to defense against an ordinary negligence action. Neither the commission nor any officer or employee of the commission shall be subject to any liability for actions taken to protect the interests of the commission or any owner of the commission's bonds or notes, provided that such actions are not reckless or wanton.

12 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a procedure for the city of Concord to establish and operate a civic and trade center. The bill also establishes a civic center commission which shall be responsible for the operation of the civic center.

SENATOR DANAIS: SB 521 establishes a civic center commission for the benefit of helping the city of Concord to go forward with their plans for a municipal civic center. The city of Concord has found out that they needed the legislation to establish a procedure for this and that is what this bill would do.

SENATOR LARSEN: I would like to say that the civic center committee in Concord appreciates the work that the Senate has done on this bill. This is an important economic development measure for Concord and I appreciate all of the work that has been done on this.

Amendment adopted.

Ordered to third reading.

SB 587, an act authorizing municipal agreements to purchase and distribute electricity. Economic Development Committee. Vote: 5-0. Ought to pass with amendment. Senator F. King for the committee.

5175L

Amendment to SB 587

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing municipal and county agreements to purchase electricity and energy services.

Amend the bill by replacing all after section 1 with the following:

2 New Chapter; Aggregation of Electric Utility Customers. Amend RSA by inserting after chapter 53-D the following new chapter:

CHAPTER 53-E**AGGREGATION OF ELECTRIC UTILITY CUSTOMERS**

53-E:1 Statement of Purpose. The general court finds it to be in the public interest to encourage municipalities and counties to aggregate retail electric customers in order to provide a more competitive market for electric utility power and energy services. The general court finds that aggregation will provide small customers with the opportunity to compete in the electric and energy service market and obtain lower electric bills, reliable service, secure energy supplies and protect environmental quality. The purpose of aggregation shall be to encourage voluntary, cost effective and innovative solutions to local needs with careful consideration of local conditions and opportunities.

53-E:2 Definitions. In this chapter:

I. "Aggregation" means the voluntary grouping of retail electric customers in order to contract for electric power and energy services.

II. "Aggregator" means the municipality or county who groups retail electric customers within its boundaries for the purchase of electric power and energy.

III. "Commission" means the public utilities commission.

IV. "Committee" means the municipal utility access committee established by a municipality to develop municipal electric utility power plans.

V. "County" means any county within the state.

VI. "Municipality" means any city, town, or village district within the state.

53-E:3 Aggregation of Electric Utility Customers.

I. A municipality or county may aggregate electric utility customers within its boundaries and enter into an agreement to purchase electric utility power and other energy services.

II. Agreements to purchase electric utility power or energy services may be entered into by a single municipality, county, or by a group of such entities.

53-E:4 Aggregators; Not Utilities.

I. An aggregator operating under the provision of this chapter shall not be considered a utility engaging in the wholesale purchase and resale of power. An aggregating municipality need not own any utility property or equipment to provide electric utility service.

II. Providing power to aggregated customers within a municipality or county shall not be considered a wholesale utility transaction. Aggregated service shall be regulated under the provisions of this chapter and any other applicable laws governing competitive electric utility markets, electric power, and energy service aggregators.

53-E:5 Municipal Electric Utility Guidelines. Any municipality or county may:

I. Aggregate all electric utility customers within its boundaries, contract with suppliers for power, or demand side management, conservation and other needed services. Transmission and distribution services shall remain with the transmission and distribution utility.

II. Contract for meter reading and customer services with the distribution utility or other contractor.

III. Be subject to additional charges for stranded costs resulting from contracts for municipal aggregation.

IV. For aggregation on a county level, vote to approve the county aggregation plan in the manner provided in this chapter. Adoption of aggregation plans shall include approval by the municipality and a participation option for individual customers.

53-E:6 Regulation by Public Utilities Commission.

I. The provision of aggregated power authorized in RSA 53-E shall be subject to regulations adopted by the commission regulating electric aggregators.

II. Transmission and distribution services shall remain with the transmission and distribution utility, which shall be paid according to rate schedules approved by the applicable regulatory authority.

53-E:7 Municipal or County Utility Access Committee.

I. The committee shall develop a plan for meeting the electric power needs of the municipality.

II. The plan shall:

(a) Meet basic standards for electric service and fairness, which shall include universal access, reliability, and equitable treatment of all classes of customers.

(b) Meet standards for environmental soundness established by the commission.

(c) Meet state standards for demand side management, conservation, and local renewable resource power generation use established by the commission.

III. A committee shall solicit public input in the planning process and shall hold public hearings.

IV. A municipal committee may elect to join another municipality or group of municipalities in order to form a common electric power service plan. A county committee may elect to join another county or group of counties to form a common electric power service plan.

53-E:8 Electric Utility Service Plan; Selection.

I. After the committee has developed an electric utility service plan, the municipality or county shall issue a request for proposal for utility generation and demand side management services.

II. A plan shall be elected by a majority vote of the committee members and shall be in the best, long-term interest of the municipality or county and the ratepayers.

III. After a plan has been selected by a municipality or county, the plan shall be submitted for approval by a 2/3 of those present and voting at an annual town or special meeting, or in a city by a 2/3 vote of the legislative body.

IV. If the plan is adopted, the municipality shall mail written notification to each customer in the service area. Notification shall include a clear and concise description of the plan and the implications for the municipality. Each customer shall be given 30 days from receipt of notification to decide whether or not to participate in the plan.

V. Within 15 days after notification of the plan has been sent to customers in the service area, the committee shall hold a public information hearing to answer questions on the plan within each municipality.

53-E:9 Electric Utility Service Plan; Selection. If the plan is adopted by a municipality or county, then the plan shall take effect within 90 days after the expiration of the acceptance or termination period.

53-E:10 Service Contracts.

I. Any contracts entered into under the plan shall be for at least one year but shall not exceed 10 years.

II.(a) Termination of a contract may be initiated by the committee of the municipality or county and shall be approved by the governing body.

(b) For municipal plans, termination may also be initiated by a petition of 25 or more registered voters. If termination is not approved by the governing body, then the question may be put to the vote of the town at special town meeting or a vote by the city at the next election if it is within 90 days, or by special election if this right is not waived by petition.

(c) For county plans, termination may be initiated by vote of 2 or more towns. If termination is not approved by the governing body of the county, then the question may be put to the vote of the participating municipalities at town meeting or a vote by the city at the next election. Termination shall require a vote to terminate by a majority of municipalities or cities participating in the plan.

III. A municipality or county may direct the committee to enter contracts with service providers after the contract has been approved by the governing body of the municipality, acceptance by a sufficient number of customers and approval by the commission.

3 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill:

(1) Authorizes a municipality or county to enter into an agreement with another municipality or county to purchase and distribute electricity under a joint agreement within any municipality which is a party to the agreement.

(2) Authorizes municipalities and counties to establish municipal or county utility access committees. These committees shall be responsible for developing municipal or county utility access power plans.

SENATOR F. KING: Mr. President and members of the Senate, SB 587 is truly a consumer bill for the small purchasers of electricity and the small businesspeople. It is a bill that has received considerable modification during the hearing process. I do have a floor amendment to address some minor changes that were recommended in our last hearing and this bill is supported by the PUC. The amended version is on page 9. I think that this may be the most important bill addressing the issue of how do individuals and how do small towns deal with competition when it comes. This bill is not dealing with the issue of competition. It is not dealing with the issue of retail wheeling. It is putting in place a process by which small consumers, small businesspeople come together and essentially purchase power as a group. It will take place after the larger issues have been settled. I strongly recommend support of this consumer bill.

Amendment adopted.

Senator F. King offered a floor amendment.

5225L

Floor Amendment to SB 587

Amend RSA 53-E:3, I as inserted by section 2 of the bill by replacing it with the following:

I. A municipality or county may aggregate electric utility customers within its boundaries and enter into an agreement to purchase electric utility power and other energy services.

Amend RSA 53-E:6, II as inserted by section 2 of the bill by replacing it with the following:

II. Transmission and distribution services shall remain with the transmission and distribution utility, which shall be paid according to rate schedules approved by the applicable regulatory authority.

Amend RSA 53-E:8, III-IV as inserted by section 2 of the bill by replacing it with the following:

III. After a plan has been selected by a municipality or county, the plan shall be submitted for approval by a 2/3 of those present and voting at an annual town or special meeting, or in a city or county by a 2/3 vote of the governing body.

IV. If the plan is adopted, the municipality or county shall mail written notification to each customer in the service area. Notification shall include a clear and concise description of the plan and the implications for the municipality. Each customer shall be given 30 days from receipt of notification to decide whether or not to participate in the plan.

Amend RSA 53-E:10, III as inserted by section 2 of the bill by replacing it with the following:

III. A municipality or county may direct the committee to enter contracts with service providers after the contract has been approved by the governing body of the municipality, acceptance by a sufficient number of customers.

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect July 1, 1997.

SENATOR F. KING: The floor amendment is being passed out. When the bill was first introduced the PUC had some difficulties with it. They now not only do not have problems, they support the bill. This amendment

does deal with some of the last comments that we received when we had our discussion during our executive session. The first issue is, this sentence was made clearer, which was the recommendation of the attorney from the Senate as well as from the PUC. This is the sentence that had some words taken out of it. Section two addresses a concern of whether or not how the issue of setting the rates for transmission is going to be determined, whether FERC is going to do it or whether the state is going to do it. That is an issue that we all know is still the subject of debate between the state and the federal government. This just says "applicable regulatory authority", whichever one ultimately decides the issue. Number three, this bill allows not only communities, it also allows counties to aggregate power for their citizens. The word "county" was added and the word "governing body" was changed to make it clear how that process would take place if the county decided to do that. On page 2 of the amendment, Roman III, some words were dropped at the end of the sentence to make it more clear. I think maybe the most significant change is the last one, the effective date. Originally this was to become effective sixty days after passage. It was recognized that this process would not be taken advantage of by communities or groups of communities until the whole issue of the date of implementation, when we see what HB 1392 is going to do, and this July 1, 1997, is the date that presently appears in HB 1392. So with these amendments I believe we have support for this bill from all of the parties.

Floor amendment adopted.

Ordered to third reading.

Recess.

Out of recess.

SB 653-FN, an act establishing the parent and pupil rights law. Education Committee. Vote: 5-2. Ought to pass with amendment. Senator Lovejoy for the committee.

5203L

Amendment to SB 653-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Parent and Pupil Rights. Amend RSA 193 by inserting after section 1-b the following new section:

193:1-c Parent and Pupil Rights. To protect the privacy of parents and pupils in the state of New Hampshire:

I. All instructional materials, including teachers manuals, films, tapes, or other supplementary materials which may be used in connection with any course of instruction, shall be made available by the school district at a convenient time and place for inspection by the parents or guardians of pupils.

II. No pupil shall be required, as part of any course of instruction, survey, analysis, or evaluation to reveal personal information concerning:

- (a) Political affiliations;
- (b) Mental or psychological problems involving the pupil or the pupil's family;
- (c) Religious affiliations;
- (d) Sexual behavior and attitudes;
- (e) Privileged relationships with lawyers, physicians, ministers, counselors; or

(f) Income of the pupil or the pupil's family (other than that required by law to determine eligibility for participation in subsidized programs or for receiving financial assistance under such a program).

III. Educational agencies and institutions shall give parents and pupils effective notice of their rights under this law.

IV. The attorney general shall take such action as the attorney general deems appropriate to enforce this law:

(a) If there has been demonstrated a refusal to comply; and

(b) Compliance with this law cannot be secured by voluntary means.

2 Effective Date. This act shall take effect January 1, 1997.

SENATOR LOVEJOY: Mr. President, SB 653 as originally proposed to us would have stated, in statute, a parent's rights where the education of their children was concerned. The bill pointed out 16 specific issues that a parent could require a school to keep out of their children's curriculum. The committee decided that the bill as proposed was too stringent and that it would put undue burdens on the school. So instead, the committee adopted an amendment which states that students shall not be required to reveal personal information as a part of their instruction in several personal areas. The amendment further states that all material used in connection with any instruction may be reviewed at a convenient time and place by a parent. Schools would give parents notification of these rights. The committee recommends, Mr. President, that the bill ought to pass as amended.

SENATOR BLAISDELL: Senator Lovejoy, I read this amendment, I just received it this morning. Everything that you have down here has probably been discussed in my school district. Why isn't this left up to the school districts in my city to make that decision anymore than your city?

SENATOR LOVEJOY: Senator Blaisdell, that question was asked in committee. During the hearings it was conceived by many of those people who participated in it - and it was a good hearing, an open hearing and well attended - that these rights weren't universally adhered to, that a need was felt throughout the state for some guidance in this area. The amendment, we felt, brings some parents into the loop, but it is not an innocuous amendment, nor is it one that would adhere to those 16 areas that were proposed in the original bill. The committee vote was 5 to 2 in favor of this policy.

SENATOR BLAISDELL: Senator Lovejoy, in my city, in the districts that I represent, we have a school board and these things are usually brought up at the school board there and they make the decisions. Why isn't this left up to my area rather than having me, in this Senate, mandate something back to my school district. Why?

SENATOR LOVEJOY: I guess, Senator Blaisdell, as I said, this was discussed thoroughly, the policy decision, and the policy decision was 5 to 2 that this is necessary, that these innocuous and broad definitions are needed.

SENATOR BLAISDELL: Would you believe that after seeing these young ladies in this room that I think that our school boards in our school districts do a hell of a job and that we ought to leave it to them?

SENATOR J. KING: I rise in opposition to this bill. I am one of the two who voted against it, mainly because this is something that should be dealt with on a local level. We have heard, especially in the last two years,

that everything should be on a local level. Keep it on a local level. This does just the opposite. In the city of Manchester, we have 12 members of the school board elected from each ward and the vice chairman of that board is the Mayor. There is no need of doing this. We have the same thing there and it should be handled on a local basis like many of the problems are being handled in some of the areas throughout the state, namely Merrimack at the present time. Thank you.

SENATOR COHEN: Mr. President, a minute ago Senator Lovejoy said "that the state should provide guidance on this." I don't think that the state needs to provide guidance. I agree with Senator John King that it is up to the local people to decide this. I think that the people have said loud and clear that the state doesn't need to provide guidance on this.

Amendment adopted.

Ordered to third reading.

Senator Blaisdell in opposition to SB 653

SB 601-FN, an act revising the air toxic control act. Environment Committee. Vote: 4-0. Ought to pass with amendment. Senator Russman for the committee.

5202L

Amendment to SB 601-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose Modified. Amend RSA 125-I:1 to read as follows:

125-I:1 Purpose. It is declared to be the public policy of the state of New Hampshire and the purpose of this chapter to promote the public health of the state by reducing [the risks from] *human* exposure to toxic chemicals by [controlling the] *regulating* releases of toxic chemicals into the ambient air.

2 Definitions Added. RSA 125-I:2 is repealed and reenacted to read as follows:

I. "Air contaminant" means soot, cinders, ashes, any dust, fume, gas, mist (other than water), odor, toxic or radioactive material, particulate matter, or any combination thereof.

II. "Air toxic" means air contaminants designated by the commissioner of the department of environmental services from the organic compounds and metals listed by the United States Environmental Protection Agency in the Code of Federal Regulations, Title 40, Part 261, Subparts C and D and Table 4 of 450/5-86-011a and subsequent updates.

III. "Ambient air" means the unconfined atmosphere that envelopes the earth.

IV. "Ambient air limit" means the standard designated pursuant to RSA 125-I:4 that establishes the maximum allowable concentration of emissions of a specific regulated toxic air pollutant at or beyond the compliance boundary.

V. "Commissioner" means the commissioner of the department of environmental services.

VI. "Compliance boundary" means the boundary of the property on which the stationary source is located or an alternate compliance boundary determined by the division in accordance with rules adopted pursuant to this chapter.

VII. "Council" means the air resources council established pursuant to RSA 21-O:11.

VIII. "Department" means the department of environmental services.

IX. "Device" means any burner, furnace, machine, equipment, or article which emits a regulated toxic air pollutant into the ambient air.

X. "Division" means the division of air resources, department of environmental services.

XI. "Director" means the director of the division.

XII. "Modification" means any physical or operational change in a stationary source or device which increases the amount of a specific regulated toxic air pollutant emitted by such source or device, or which results in the emission of any additional regulated toxic air pollutant.

XIII. "Pollution control equipment" means any device that treats, removes, restricts, or otherwise controls the release or discharge of regulated toxic air pollutants that is not vital to normal productions operations.

XIV. "Process" means any operation which combines devices, equipment, raw materials, utilities, and manpower for the production of goods, services, energy, pollution control, or other purposes which emits a regulated toxic air pollutant into the ambient air.

XV. "Reference concentration limit" means an estimate established by the United States environmental protection agency of a daily exposure to the human population, including sensitive subgroups, that is likely to be without an appreciable risk of deleterious effects during a lifetime.

XVI. "Regulated toxic air pollutant" means any substance or compound emitted into the ambient air by a stationary source and designated a regulated toxic air pollutant pursuant to RSA 125-I:4. Regulated toxic air pollutants are classified as:

(a) Class I, meaning any regulated toxic air pollutant recognized by the International Agency for Research on Cancer, the United States environmental protection agency or similar public agency to have carcinogenic or co-carcinogenic potential for humans, or those which are suspected of inducing cancer based on limited epidemiologic evidence or demonstration of carcinogenesis in one or more animal species by appropriate scientific methods, or otherwise designated a regulated toxic air pollutant - Class I by the commissioner pursuant to rules adopted under RSA 125-I:3.

(b) Class II, meaning any regulated toxic air pollutant recognized by the International Agency for Research on Cancer, the United States environmental protection agency or similar public agency as a positive animal carcinogen in at least one species or otherwise designated a regulated toxic air pollutant - Class II by the commissioner pursuant to rules adopted under RSA 125-I:3.

(c) Class III, meaning any regulated toxic air pollutant other than a regulated toxic air pollutant - Class I or Class II.

XVII. "Stationary source" means any building, structure, facility, or installation that emits or may emit a regulated toxic air pollutant into the ambient air.

XVIII. "Threshold limit value" means the threshold limit value-time weighted average (TLV-TWA) as set forth in the American Conference of Governmental Industrial Hygienists (ACGIH) 1995 list and as amended thereafter.

XIX. "Uncontrolled emission" means any emission of a regulated toxic air pollutant from a device or process at a stationary source that is not subject to treatment or removal by pollution control equipment prior to

being emitted to the ambient air, or is emitted to the ambient air in amounts which have not been limited by conditions in an enforceable permit or document.

3 Toxic Air Pollutant Control; Exemptions; Rulemaking. RSA 125-I:3 is repealed and reenacted to read as follows:

125-I:3 Toxic Air Pollutant Control; Exemptions.

I. The division shall establish a statewide permit system for stationary sources which release regulated toxic air pollutants into the ambient air.

II. The commissioner shall, in consultation with the council, adopt rules, pursuant to RSA 541-A, relative to the prevention, control, abatement, and limitation of regulated toxic air pollutant emissions.

III. The following shall be exempt from the provisions of this chapter:

(a) Normal agricultural operations and the application of pesticides regulated pursuant to RSA 430:28 through 430:48.

(b) Emissions of regulated air toxic pollutants resulting from mobile sources and the combustion of virgin petroleum products at stationary sources.

(c) Pursuant to rules adopted under RSA 541-A by the commissioner, in consultation with the council, those emissions of regulated air toxic pollutants from stationary sources which are adequately regulated under other provisions of state or federal law or which, based on available information, pose little risk to human health.

4 New Sections; Toxic Air Pollutants Regulated; Rulemaking. Amend RSA 125-I by inserting after section 3 the following new sections:

125-I:4 Regulated Toxic Air Pollutants.

I. Regulated toxic air pollutants shall include the following:

(a) Those substances or compounds listed as hazardous air pollutants pursuant to Section 112(b) of the Clean Air Act (42 U.S.C. 7412), as amended from time to time; and

(b) Those chemical substances for which a threshold limit value has been established by the American Conference of Governmental Industrial Hygienists as of December 31, 1995, as amended.

II. The division shall designate each regulated toxic air pollutant as a regulated toxic air pollutant - class I, a regulated air pollutant - class II, or a regulated air pollutant - class III.

III. For each regulated toxic air pollutant, the division shall designate, in rules adopted by the commissioner pursuant to RSA 541-A, a short term and long term ambient air limit. In establishing ambient air limits under this chapter the division shall rely on threshold limit values, reference concentration limits, and such other generally accepted scientific data as may be available.

IV. The division shall publish the list of all regulated toxic air pollutants, their classification as a regulated toxic air pollutant - Class I, - Class II or - Class III, and their respective short term and long term ambient air limits immediately upon adoption of the rules establishing such classifications and ambient air limits for each regulated toxic air pollutant. Notice of publication of such list shall be made by the division in the New Hampshire Rulemaking Register. Thereafter, the division shall publish annually a complete list of all regulated toxic air pollutants, classifications, and ambient air limits. Any revision to the list of regulated toxic air pollutants or their respective classifications or ambient air limits made prior to the annual publication of such list shall be no-

ticed by publication of the revision by the division in the New Hampshire Rulemaking Register and shall not take effect until such publication has occurred.

V. At any time, or pursuant to petition of any stationary source or affected person, the commissioner may modify the list of regulated toxic air pollutants by adding or deleting any substance or compound from the list, or by establishing or modifying any classification or ambient air limit for such substances or compounds, by adopting rules in accordance with the provisions of RSA 541-A, provided there is at least one study conducted in accordance with generally accepted scientific principles that demonstrates that acute, chronic, reproductive, or developmental health effects may occur in humans as a result of exposure to such substances or compounds listed or proposed for listing as regulated toxic air pollutants.

125-I:5 Compliance; Permit Required.

I. No person shall operate any device or process at a stationary source that emits an air toxic without a temporary or operating permit issued by the division in accordance with this chapter or RSA 125-C, provided, however, that no permit or permit application shall be required for any device or process at a stationary source exempted under RSA 125-I:3, III, or whose uncontrolled emissions of air toxics do not exceed ambient air limits at or beyond the compliance boundary and for which no other permit is required under RSA 125-C. A permit shall be required for any device or process at a stationary source emitting an air toxic whose emissions are subject to treatment or removal by pollution control equipment or are limited by conditions in an enforceable permit or document in order to comply with an ambient air limit.

II. A person or persons having ownership or control of a stationary source may demonstrate compliance with this chapter and any rules adopted hereunder by air dispersion analysis or such other techniques as the division designates pursuant to rules adopted by the commissioner in accordance with RSA 541-A. In addition, the division shall establish in rules adopted by the commissioner pursuant to RSA 541-A one or more methodologies by which any stationary source can determine, through testing, calculation, or other acceptable method without air dispersion modeling, whether the existing or proposed emission of any regulated toxic air pollutant will result in an exceedance of an ambient air limit at the source's compliance boundary.

125-I:6 Rulemaking.

I. The commissioner shall adopt rules as expeditiously as possible and no later than December 31, 1996, under RSA 125-I:3, II, relative to:

(a) Procedures and criteria for classifying regulated toxic air pollutants as Class I, II and III - regulated toxic air pollutants.

(b) Procedures and criteria for determining ambient air limit.

(c) Establishment of a list of regulated toxic air pollutants including the classification under RSA 125-I:4, II and short term and long term ambient air limits for each regulated toxic air pollutant listed.

(d) Establishment of methodologies for determining by testing, calculation or other acceptable method without complete air dispersion modeling whether an existing or proposed emission of a regulated toxic air pollutant will exceed the applicable ambient air limit at the source's compliance boundary.

(e) Establishment of a list of stationary sources that are exempt from the provisions of this chapter.

II. The commissioner shall adopt rules as expeditiously as possible and no later than June 30, 1997, under RSA 125-I:3, II, relative to:

(a) Procedures and criteria for determining compliance with ambient air limits established pursuant to this chapter.

(b) Procedures for petitioning the division to revise the list of regulated toxic air pollutants in accordance with the provisions of RSA 125-I:4, V.

(c) Procedures and criteria for establishing an alternate compliance boundary for a stationary source.

125-I:7 Inspection.

I. For the purpose of determining compliance with this chapter, any rule adopted by the commissioner relative to this chapter, or any condition of a permit issued under RSA 125-C relative to the emission of a regulated toxic air pollutant and any other air contaminant, an employee or authorized representative of the division or the department may, upon presentation of appropriate credentials and at any reasonable time:

(a) Enter any facility containing a source of air pollution.

(b) Inspect and photograph the device or source which produces or controls emissions of regulated toxic air pollutants and other air contaminants, and obtain samples of materials processed in and generated from the devices and sources at the facility.

(c) Inspect and copy records, information or test results relating to air pollution, air contaminants and devices or sources which produce or control emissions of regulated toxic air pollutants and other air contaminants.

II. For the purpose of determining the type and quantity of regulated toxic air pollutants and other air contaminants being emitted from any stationary source, the director may require the stationary source to maintain and submit production data, material usage records, equipment manufacturer's specifications, material safety data sheets and such other similar records, data and information.

III. Any records, data, or information obtained by or submitted to the department or any other agency of the state under this chapter which, in the judgment of the department, constitutes a trade secret, shall not be disclosed to the public without notice to the owner of the trade secret and an opportunity for a hearing. The protection against unauthorized disclosure of trade secret information under this chapter shall not exceed that permitted under RSA 91-A. The department may provide information relating to trade secrets to the EPA, provided that the EPA guarantees the same degree of confidentiality afforded by the department.

125-I:8 Enforcement.

I. Whenever the director or the director's authorized representative finds that any device or source of air pollution has resulted in a violation of any of the provisions of this chapter or any rules in force hereunder, or any condition in a permit issued under this chapter, the director shall issue a notice of violation and, where appropriate, an order of abatement establishing a compliance schedule with which the device or source shall comply. Any order of abatement shall become final and enforceable by the director within 30 days of its issuance unless an appeal is filed with the air resources council before the expiration of the 30-day period. The council shall hold a hearing on any such appeal promptly, and shall thereafter issue a decision upholding, modifying, or abrogating the director's order of abatement or any part of such order. The council's decision shall become final 10 days after it is issued. Appeals from decisions of the air resources council shall be made in accordance with the provisions of RSA 541. Upon a finding by the director that there is an imminent and substantial endangerment to the public health or welfare

or the environment, the director shall issue an order of abatement requiring immediate compliance and the order shall be final and enforceable upon issuance, but may be appealed to the council within 30 days of its issuance and the council may, after hearing, uphold, modify, or abrogate the order.

II. Any violation of the provision of this chapter, or of any rules or orders issued under it, or of any condition in a permit issued under it, shall be subject to enforcement by injunction, including mandatory injunction, issued by the superior court upon application of the attorney general. Any such violation shall also be subject to a civil forfeiture to the state of not more than \$25,000 per violation, and for each day of a continuing violation.

III. Any person who violates any of the provisions of this chapter, or any rule adopted or order issued under this chapter, or any condition of a permit issued under this chapter shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

IV. Notwithstanding RSA 651:2, any person may, in addition to any sentence of imprisonment, probation, or conditional discharge, be fined not more than \$25,000 if found guilty of any violation pursuant to RSA 125-I:8, III. Each day of violation shall constitute a separate offense.

5 Compliance With New Requirements for Regulated Toxic Air Pollutants. RSA 125-I:5 is repealed and reenacted to read as follows:

125-I:5 Compliance; Permit Required.

I. No person shall operate any device or process at a stationary source that emits a regulated toxic air pollutant without a temporary or operating permit issued by the division in accordance with this chapter or RSA 125-C, provided, however, that no permit or permit application shall be required for any device or process at a stationary source exempted under RSA 125-I:3, III, or whose uncontrolled emissions of regulated toxic air pollutants do not exceed ambient air limits at or beyond the compliance boundary and for which no other permit is required under RSA 125-C. A permit shall be required for any new or modified device or process at a stationary source emitting a regulated toxic air pollutant whose emissions are subject to treatment or removal by pollution control equipment or are limited by conditions in an enforceable permit or document in order to comply with an ambient air limit.

II. Existing devices or processes emitting regulated toxic air pollutants at a stationary source in operation as of the effective date of the rules adopted by the division under RSA 125-I:6, I shall comply with either:

(a) The rules adopted by the division relative to air toxics, including but not limited to rules establishing ambient air limits, in effect immediately prior to the effective date of the rules adopted by the division under RSA 125-I:6, I, for a period of 3 years following the effective date of the rules adopted by the division relative to regulated toxic air pollutants under RSA 125-I:6, I, at which time such stationary sources shall comply with the provisions of this chapter and the rules adopted under this chapter relative to regulated toxic air pollutants; or

(b) The provisions of this chapter and the rules adopted under this chapter relative to regulated toxic air pollutants at anytime, but no later than 3 years following the effective date of the rules adopted by the division under RSA 125-I:6, I.

III. All new and modified devices or processes emitting regulated toxic air pollutants at a stationary source shall comply with the provisions of this chapter and the rules adopted under this chapter relative to regulated toxic air pollutants.

IV. If the division revises the list of regulated toxic air pollutants or their respective ambient air limits or classifications under RSA 125-I:4, II, and as a result of such revision any source of regulated toxic air pollutants is required to obtain or modify a permit under the provisions of RSA 125-I or RSA 125-C, the stationary source shall have 90 days following publication or notice of such final revision in the New Hampshire Rulemaking Register to file a complete application for such permit or permit modification. The division shall include as conditions in any permit issued as a result of a revision to the list of regulated toxic air pollutants a compliance plan and a schedule for achieving compliance based on public health, economic and technical considerations, not to exceed 3 years. Failure to comply with any such compliance plan or schedule of compliance shall be subject to the enforcement provisions of RSA 125-I:8.

V. A person or persons having ownership or control of a stationary source may demonstrate compliance with this chapter and any rules adopted under this chapter by air dispersion analysis or such other techniques as the division designates pursuant to rules adopted by the commissioner in accordance with RSA 541-A. In addition, the division shall establish in rules adopted by the commissioner pursuant to RSA 541-A one or more methodologies by which any stationary source can determine, through testing, calculation, or other acceptable method without air dispersion modeling, whether the existing or proposed emission of any regulated toxic air pollutant will result in an exceedance of an ambient air limit at the source's compliance boundary.

6 Existing Rules. Nothing in this act shall be construed to affect the validity of any rules adopted by the commissioner relative to air toxics, or of requirements contained therein, in effect on July 1, 1996.

7 Publication Required in Rulemaking Register. Amend RSA 541-A:9, I(h) to read as follows:

(h) ***Publication of the list of regulated toxic air pollutants and classifications by the division of air resources under RSA 125-I:4.***

(i) At the request of any agency, any other notices or documents related to rulemaking, at the discretion of the director.

8 Integration Study. Within 60 days of the effective date of this act, the commissioner of the department of environmental services shall establish a committee to study the integration of the program established under this act with the program established under section 112 of the Clean Air Act. The committee shall include representatives from the department, the department of health and human services, and the business and industry and environmental communities in this state, appointed by the commissioner. The committee shall report its findings to the house environment and agriculture committee, the house science, technology and energy committee, and the senate environment committee no later than November 1, 1996.

9 Effective Date.

I. Section 5 of this act shall take effect at 12:01 a.m. on the day the rules adopted under RSA 125-I:6, I become effective.

II. The remainder of this act shall take effect July 1, 1996.

SENATOR RUSSMAN: SB 601 clarifies the air toxic control regulations making compliance easier for the business community and also continues to protect the state's environment. Specifically, the bill redefines air toxics as "regulated toxic air pollutants" and it lists all federal hazardous air pollutants and all substances that fall within the threshold

established by the American Conference of Governmental Industrial Hygienists. This list is updated every year. It also provides for ambient air limits to be established through the rulemaking process. It grants it a three-year transition program for existing emission sources. We urge the Senate vote ought to pass.

Amendment adopted.

Ordered to third reading.

SB 507, an act relative to the New Hampshire real estate practice act. Executive Departments and Administration. Vote: 4-1. Ought to pass with amendment. Senator Colantuono for the committee.

5211L

Amendment to SB 507

Amend the bill by deleting section 8 and renumbering section 9 to read as 8.

AMENDED ANALYSIS

This bill:

- I. Establishes an inactive license status for real estate broker licensees.
- II. Requires the real estate commission to publish an annual newsletter.
- III. Establishes a statute of limitations for filing a complaint under the real estate practice act.
- IV. Exempts persons who gather information for licensees from being licensed.

SENATOR COLANTUONO: This bill is a further rewriting of the New Hampshire Real Estate Practice Act. The real estate professionals in the state have worked hard on redrafting this bill. The bill creates an inactive status for real estate licensees which has been sought for several years. It outlines new continuing education requirements for licensees and provides a three-year statute of limitations on complaints against licensees. The committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 533, an act prohibiting the recovery of certain costs associated with special utility contracts. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Keough for the committee.

5220L

Amendment to SB 533

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Recovery of Certain Costs Prohibited. Amend RSA 378 by inserting after section 18 the following new section:

378:18-a Costs of Special Contracts; Utilities. Notwithstanding any provision of law to the contrary, for the purposes of ratemaking, any utility that adopts special contracts shall not be allowed to recover from other ratepayers the difference between the regular tariff rate and the special contract rate unless and only to the extent that the commission determines that it is in the public interest and equitable to other ratepayers.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill prohibits certain utilities from recovering the difference between the regular tariff rate and the special contract rate from ratepayers.

SENATOR KEOUGH: SB 533 prevents utilities from passing on costs associated with special contracts to ratepayers, unless the costs can be justified to be in the public interest and equitable to other ratepayers. The New Hampshire consumer will be protected from shouldering the costs of decisions to favor certain customers over others, unless and until a review by the Public Utilities Commission finds that that decision was good for all New Hampshire ratepayers. At the same time, the amended version of the bill recognizes that there may, in fact, be circumstances in which special contracts are good for all ratepayers, in order to achieve job retention or load retention. The Public Utilities Commission supports the amended version of the bill and the committee voted that it ought to pass unanimously. Thank you.

Amendment adopted.

Ordered to third reading.

SB 568-FN, an act requiring the house and senate calendars to be made available on the largest nonprofit public computer network (Internet). Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Larsen for the committee.

5123L

Amendment to SB 568-FN

Amend RSA 20:3-c as inserted by section 2 of the bill by replacing it with the following:

20:3-c House and Senate Calendars. No later than the close of each day on which the senate and the house calendars are received as printed, the clerks of the senate and the house of representatives shall cause the calendar of their respective bodies to be made available on the largest nonproprietary, nonprofit cooperative public computer network.

SENATOR LARSEN: This bill places the Senate Calendar on the Internet. It brings the information superhighway to citizens from all over the state and it will help people . . . **TAPE CHANGE** . . . the information of the State House. We understand that it is a workable system and it will help people understand our Calendars and know what we are doing. We urge adoption with amendment.

Amendment adopted.

Ordered to third reading.

SB 576-LOCAL, an act permitting telecommunications public utilities to provide services at rates lower than those fixed by its schedules of general application to public and private schools grades kindergarten through 12. Executive Departments and Administration Committee. Vote: 4-1. Ought to pass with amendment. Senator Stawasz for the committee.

5140L

Amendment to SB 576-LOCAL

Amend RSA 378:15-a as inserted by section 1 of the bill by replacing it with the following:

378:15-a Service to Schools Grades Kindergarten Through 12. Any telephone utility operating under an alternative form of regulation approved

by the public utilities commission pursuant to RSA 374:3-a may provide service to public and private schools, grades kindergarten through 12, in the state of New Hampshire for which it is a service provider, at rates lower than those fixed by its schedules of general application, provided such rates are set no lower than the incremental cost of the relevant service.

SENATOR STAWASZ: This would give some flexibility to the utilities in trying to further a goal they have in cooperating with schools in trying to give them some benefit at cost of telecommunications services. Particularly in light of some of our earlier bills, the Internet and other things, this could be a valuable aid to education. We recommend ought to pass.

Amendment adopted.

Ordered to third reading.

SB 596, an act requiring that all general election ballots alternate the names of candidates according to party. Executive Departments and Administration Committee. Vote: 4-1. Inexpedient to legislate. Senator Stawasz for the committee.

SENATOR STAWASZ: SB 596 would have made the printing business people very, very happy, but the Secretary of State advised us that in order to rotate names on all of these ballots, it would be almost an insurmountable task and it would be of great expense for little benefit. We recommend inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 606, an act relative to certification qualifications for marital mediators and prohibiting board involvement in training of marital mediators. Executive Departments and Administration Committee. Vote: 4-1. Ought to pass with amendment. Senator Colantuono for the committee.

4404L

Amendment to SB 606

Amend the bill by replacing section 3 with the following:

3 Internship Requirements. Amend RSA 328-C:5, I(b) to read as follows:

(b) Completion of an internship approved by the board and [at least] **no more than** 20 hours in length with a certified marital mediator or certified marital mediation program.

4 Rulemaking. The board of marital mediator certification shall initiate rulemaking to implement the provisions of this act within 6 months of the effective date of this act.

5 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill changes the experience requirements for qualifying for certification as a marital mediator. This bill also prohibits members of the board of marital mediator certification from training persons for certification as marital mediators.

The bill requires the board of marital mediation certification to initiate rulemaking to implement the provisions of this bill within 6 months of its effective date.

SENATOR COLANTUONO: This bill changes the experience requirements for qualifying for certification as a marital mediator. It also pro-

hibits members of the board from training persons for certification as marital mediators, and rulemaking is required to implement the provisions of the bill within six months of the effective date.

Amendment adopted.

Ordered to third reading.

SB 611, an act relative to the duties of real estate licensees. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Colantuono for the committee.

5221L

Amendment to SB 611

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose. The general court finds that it is in the best interest of the state to statutorily clarify issues surrounding relationships which are created between real estate licensees and their clients and consumers.

2 New Paragraph; Definition Added. Amend RSA 331-A:2 by inserting after paragraph I the following new paragraph:

I-a. "Agency" means a fiduciary relationship between a principal and an agent arising out of a brokerage agreement whereby the agent is engaged to do certain acts on behalf of the principal in dealings with a third party.

3 New Paragraph; Definitions Added. Amend RSA 331-A:2 by inserting after paragraph III the following new paragraphs:

III-a. "Brokerage agreement" means a written contract between a principal and a licensee intended to bring parties together for the sale, purchase, exchange, rent, or lease of real estate.

III-b. "Buyer" means a party in the transaction involved in the purchase or exchange of real estate.

III-c. "Buyer agent" means a licensee acting on the behalf of a buyer or tenant in the purchase, exchange, rent, or lease of real estate.

4 New Paragraph; Definition Added. Amend RSA 331-A:2 by inserting after paragraph IV the following new paragraph:

IV-a. "Disclosed dual agent" means a licensee acting for more than one party whose interests may differ in a transaction with the knowledge and written consent of all parties for whom the licensee acts.

5 New Paragraph; Definitions Added. Amend RSA 331-A:2 by inserting after paragraph V the following new paragraphs:

V-a. "Landlord" means a party in a transaction who owns real estate intended for rental or leasing purposes. For the purposes of this chapter, "landlord" shall also mean "lessor."

V-b. "Licensee" means a broker or salesperson licensed by the New Hampshire real estate commission under the provisions of this chapter.

6 New Paragraph; Definition Added. Amend RSA 331-A:2 by inserting after paragraph VI the following new paragraph:

VI-a. "Ministerial acts" means acts of an administrative nature which licensees perform including showing property, preparing offers or agreements to sell, purchase, exchange, rent, or lease, and conveying those offers or agreements to the parties and providing information and assistance concerning professional services not related to the provisions of RSA 331-A.

7 New Paragraph; Definition. Amend RSA 331-A:2 by inserting after paragraph VII the following new paragraph:

VII-a. "Principal" means the party or parties to a real estate transaction who contract the services at a real estate license to act on their behalf in a fiduciary relationship.

8 New Paragraphs; Definitions. Amend RSA 331-A:2 by inserting after paragraph X the following new paragraphs:

XI. "Seller" means a party in the transaction who owns the real estate intended for the sale or exchange of real estate.

XII. "Seller agent" means a licensee acting on the behalf of a seller or landlord in the sale, exchange, rent, or lease of real estate.

XIII. "Subagent" means any licensee engaged by the principal broker, under authority granted by the seller, landlord, buyer, or tenant, to perform agency functions on behalf of the seller, landlord, buyer, or tenant.

XIV. "Tenant" means a party who has entered, or is intending to enter, into a rental or lease arrangement with a landlord. For purposes of this chapter, "tenant" shall also mean "lessee."

9 New Sections; Scope of Agency; Interpretation. Amend RSA 331-A by inserting after section 25 the following new sections:

331-A:25-a Licensee; Scope of Agency; Interpretation.

I. A licensee that provides services through a brokerage agreement for a seller, landlord, buyer, or tenant is bound by the duties of loyalty, obedience, disclosure, confidentiality, reasonable care, diligence and accounting.

II. A licensee may be a seller agent, a buyer agent, a disclosed dual agent, or a subagent. If another relationship between the licensee who performs the services and the seller, landlord, buyer, or tenant is intended, it must be described in writing and signed by all parties to the relationship prior to services being rendered.

331-A:25-b Seller Agent; Duties.

I. A licensee engaged by a seller or landlord shall:

(a) Perform the terms of the written brokerage agreement made with the seller or landlord.

(b) Promote the interests of the seller or landlord including:

(1) Seeking a sale, lease, rent, or exchange at the price and terms stated in the brokerage agreement or a price and terms acceptable to the seller or landlord except that the licensee is not obligated to seek additional offers to purchase the real estate while the real estate is subject to a contract of sale unless the brokerage agreement so provides.

(2) Presenting in a timely manner all offers and agreements to and from the seller or landlord, even if the real estate is subject to a contract of sale.

(3) Accounting in a timely manner, during and upon termination, expiration, completion, or performance of the brokerage agreement for all money and property received in which the seller or landlord has or may have an interest.

(4) Informing the seller or landlord that such seller or landlord may be liable for the acts of the principal broker and subagents who are acting on behalf of the seller or landlord when the licensee is acting within the scope of the agency relationship.

(5) Informing the seller or landlord of the laws and rules regarding real estate condition disclosures.

(c) Preserve confidential information received from the seller or landlord that is acquired during a brokerage agreement. This obligation continues beyond the termination, expiration, completion, or performance of the fiduciary relationship. Confidentiality shall be maintained unless:

(1) The seller or landlord to whom the information pertains grants written consent to disclose the information;

(2) The information is made public from a source other than the licensee;

(3) Disclosure is necessary to defend the licensee against an accusation of wrongful conduct in a judicial proceeding before a court of competent jurisdiction, the commission, or before a professional committee; or

(4) If otherwise required by law.

(d) Be able to promote alternative real estate not owned by the seller or landlord to prospective buyers or tenants as well as list competing properties for sale or lease without breaching any duty to the seller or landlord.

II. The duties of a licensee acting on behalf of a seller or landlord to a buyer or tenant include:

(a) Treating all prospective buyers or tenants honestly and insuring that all required real estate condition disclosures are complied with.

(b) The ability to provide assistance to the buyer or tenant by performing ministerial acts such as showing property, preparing offers or agreements, and conveying those offers or agreements to the seller or landlord and providing information and assistance concerning professional services not related to the real estate brokerage services. Performing ministerial acts for the buyer or tenant shall not be construed as violating the brokerage agreement with the seller or landlord, provided that agency disclosure has been given in writing to the buyer or tenant. Performing ministerial acts for the buyer or tenant shall not be construed as forming an agency relationship with the buyer or tenant.

331-A:25-c Buyer Agent; Duties.

I. A licensee engaged by a buyer or tenant shall:

(a) Perform the terms of the written brokerage agreement made with the buyer or tenant.

(b) Promote the interests of the buyer or tenant including:

(1) Seeking real estate at a price and terms specified by the buyer or tenant except that the licensee is not obligated to seek other real estate for the buyer or tenant while the buyer or tenant is a party to a contract to purchase, exchange, rent, or lease that real estate unless the brokerage agreement so provides.

(2) Presenting in a timely manner all offers to and from the buyer or tenant on real estate of interest.

(3) Accounting in a timely manner, during and upon termination, expiration, completion, or performance of the brokerage agreement for all money and property received in which the buyer or tenant has or may have an interest.

(4) Informing the buyer or tenant of the laws and rules regarding real estate condition disclosures.

(c) Preserve confidential information received from the buyer or tenant that is acquired during a brokerage agreement. This obligation continues beyond the termination, expiration, completion, or performance of the fiduciary relationship. Confidentiality shall be maintained unless:

(1) The buyer or tenant to whom the information pertains grants written consent to disclose the information;

(2) The information is made public from a source other than the licensee;

(3) Disclosure is necessary to defend the licensee against an accusation of wrongful conduct in a judicial proceeding before a court of competent jurisdiction, the commission, or before a professional committee; or

(4) If otherwise required by law.

(d) Be able to introduce the same real estate to other prospective buyers or tenants without breaching any fiduciary duty to the buyer or tenant.

II. The duties of a licensee acting on behalf of a buyer or tenant to a seller or landlord include:

(a) Treating all prospective sellers or landlords honestly.

(b) The ability to provide assistance to the seller or landlord by performing ministerial acts such as showing property, preparing offers or agreements, and conveying those offers or agreements to the buyer or tenant and providing information and assistance concerning professional services not related to the real estate brokerage services. Performing ministerial acts for the seller or landlord shall not be construed as violating the brokerage agreement with the buyer or tenant, provided that agency disclosure has been given in writing to the seller or landlord. Performing ministerial acts for the seller or landlord shall not be construed as forming an agency relationship with the seller or landlord.

331-A:25-d Disclosed Dual Agent; Duties.

I. A licensee may act as a disclosed dual agent only with the written consent of all parties involved in the real estate transaction.

II. The duties of a licensee acting as a disclosed dual agent include:

(a) Performing the terms of the written disclosed dual agency agreement made with the parties.

(b) Presenting in a timely manner all offers or agreements to and from the parties on real estate of interest.

(c) Accounting in a timely manner, during and upon termination, expiration, completion, or performance of the brokerage agreement for all money and property received in which the parties have or may have an interest.

(d) Informing the parties of the laws and rules regarding real estate condition disclosures.

(e) Preserving confidential information received from the parties that is acquired during the written disclosed dual agency relationship, or from any prior brokerage agreement. This obligation continues beyond the termination, expiration, completion, or performance of the fiduciary relationship. Confidentiality shall be maintained unless:

(1) The party to whom the information pertains grants written consent to disclose the information;

(2) The information is made public from a source other than the licensee;

(3) Disclosure is necessary to defend the licensee against an accusation of wrongful conduct in a judicial proceeding before a court of competent jurisdiction, the commission, or before a professional committee; or

(4) If otherwise required by law.

10 Effective Date. This act shall take effect 60 days after its passage.

SENATOR COLANTUONO: This bill amends the New Hampshire Real Estate Practice Act by defining the duties of seller agents, buyer agents and disclosed dual agents. The amendment clarifies some confusion that was created by the original bill and the committee voted ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 614, an act authorizing licensing of alcohol and drug counselors. Executive Departments and Administration Committee. Vote: 4-1. Ought to pass with amendment. Senator Larsen for the committee.

4540L

Amendment to SB 614

Amend RSA 330-C:3, XIII as inserted by section 1 of the bill by replacing it with the following:

XIII. "Licensed alcohol and drug counselor" is an individual licensed by the board to practice substance abuse counseling who meets the qualifications set forth in this chapter.

Amend RSA 330-C:5, I(a) as inserted by section 1 of the bill by replacing it with the following:

(a) Qualified members of other professions or occupations, including school guidance counselors, engaging in practices similar in nature to substance abuse counseling provided that they are authorized by the laws of this state to engage in such practices and do not represent themselves as a "licensed alcohol and drug counselor" or "licensed chemical dependency clinical supervisor."

Amend RSA 330-C:6, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The commissioner may remove any member of the board for neglect of duty, malfeasance, or conviction of a felony, or a crime involving moral turpitude while in office, or for lack of attendance or participation in board meetings. No member may be removed until after a public hearing conducted in accordance with rules adopted by the commissioner. Members shall receive at least 30 days' written notice before such a public hearing. No board member shall participate in any matter before the board in which pecuniary interest, personal bias, or other conflicts of interests are established.

Amend RSA 330-C:7 as inserted by section 1 of the bill by replacing it with the following:

330-C:7 Powers and Duties of the Board.

I. The board shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Qualifications of alcohol and drug abuse counselors including, but not limited to:

- (1) Education and training.
- (2) Experience required.
- (3) Required knowledge of alcohol and drug abuse counseling.
- (4) Adherence to ethical standards.
- (5) Continuing education and renewal.
- (6) Test requirements.

(b) Qualifications of chemical dependency clinical supervisors including, but not limited to:

- (1) Education and training.
- (2) Experience required.
- (3) Licenses required.
- (4) Required knowledge of clinical supervision.
- (5) Continuing education and renewal.
- (6) Testing requirements.

II. The board shall establish peer advisory committees to carry out the testing requirements of this chapter for each discrete credential in accordance with rules adopted pursuant to RSA 541-A.

III. The board shall be responsible for all disciplinary procedures under this chapter in accordance with rules adopted pursuant to RSA 541-A.

IV. The board shall adopt rules pursuant to RSA 541-A for any other matters as may be necessary for the administration of this chapter, including but not limited to:

(a) The criteria and process for recognizing educational institutions.

(b) Fees, renewal fees, late renewal fees and any other additional application requirements for licenses.

Amend RSA 330-C:8, I as inserted by section 1 of the bill by replacing it with the following:

I. The director shall issue a chemical dependency clinical supervisor license or an alcohol and drug counselor license, whichever is appropriate, to an applicant who files an application, pays the required fee, and meets the qualifications established under RSA 330-C:7.

Amend RSA 330-C:8, II(a)(6) as inserted by section 1 of the bill by replacing it with the following:

(6) Passing of ICRC written test for clinical supervisors.

Amend RSA 330-C:9 as inserted by section 1 of the bill by replacing it with the following:

330-C:9 Fees and Renewals. Licenses shall be renewed every 24 months after initial licensure upon payment of a fee.

SENATOR LARSEN: SB 614 authorizes alcohol and drug counselors, chemical dependency and clinical supervisors to be licensed. The bill establishes a licensing board with fees and license application and renewal procedures. The bill is needed as these professionals have no opportunity to be licensed or regulated with the elimination of the Bureau of Alcohol and Drug Abuse. The committee recommends this bill as ought to pass.

Amendment adopted.

Ordered to third reading.

SB 626, an act relative to the style and applicability of administrative rules. Executive Departments and Administration Committee. Majority report: Vote: 4-1. Inexpedient to legislate. Senator Larsen for the majority. Vote: 4-1. Minority report: Vote: 1-4. Ought to pass. Senator Stawasz for the minority. Vote: 1-4.

SENATOR STAWASZ: I introduced this bill after the experience of my first year here on the Joint Legislative Committee on Administrative Rules. It seemed that every time an agency came in, the staff attorneys wanted them to define everything that the staff attorneys didn't understand, which seemed to be quite a few things, right down to the point of when your vessel is in fog, you shall sound a long blast once each minute. The staff attorneys wanted them to define what a blast was. They wanted them to further define what a long blast would be as opposed to some other blast. None of the attorneys owned a boat. Apple growers came in and they wanted to define every terminology that applies to an apple from a farmer's point of view, drought spots, limb rub. This is meant . . . , and I would like to get it over to the House ED & A, to Chairman Mercer, who also chairs the Joint Legislative Rules Committee. I think the Senate this year has really taken a lead on that committee, Senator King, Senator Rodeschin, Senator Larsen, Senator Pignatelli. I think our attendance has really been much better than the House members. I would like to give them a chance to work on this because I think we have a real problem with the proliferation of rules, page after page after page, when you have to define what a "tee" and an "elbow" are for a plumber. I don't think we need to be wasting our time on the committee, the staff's time, the regu-

latory agency's time. If you really don't know what a 'tee' or an elbow is or what a long blast in fog is, I guess the rule probably wouldn't cover you. The standard that is interpreted by our staff is that the average person should understand this. But the statute doesn't say that, and I believe if we are writing rules, the standard of definition level, in the technical terms, we can reference technical manuals. But I would like to see us put some limits on the proliferation of Administrative Rules. I urge you to vote that it ought to pass.

SENATOR F. KING: I am not sure whether this bill is the right bill to do the job, but I can concur with Senator Stawasz. I sit on that committee. Because of the complexity of the statute, it appears that the attorneys do a good job at representing us, and they feel that all rules should be written so that the citizens can understand them. A lot of these rules are very technical in nature and only affect certain professional groups and certain tradesmen. It really is almost impossible for those rules to address technical rules for agriculture or for plumbing or cosmetology. It seems that we have over regulated the regulators by having to do this. I would agree with Senator Stawasz. I, too, have attended the meetings and have sensed the frustration of some of the people who have appeared before us, especially the agencies when they try to write rules that everybody can understand. The average person doesn't need to understand the technicality of how an insurance policy is written or how the banking regulations are. These can be very, very burdensome. I think the rules probably are a disincentive to the citizens who try to understand what the rules are all about. It is something that needs to be addressed to make it easier for the agencies to fulfill their obligation to create rules for the process.

SENATOR LARSEN: The majority of the committee disagreed with the minority report, in that we felt that the rules, in essence, should be understandable. The effort should be made for Administrative Rules to be understandable to the average person. We felt that the rule of the committee was to make judgement calls at times when it was impossible to write a rule that was totally understandable. The current statutes say that the text of the rules have to be written in a clear and coherent manner, using words with common and everyday meanings except when technical language is necessary. That is a good rule. That is a good law. That says that for the most part, rules have to be understandable. I believe that the roll of the Administrative Rules Committee is to find those times when it is impossible to write an exact definition, and to write an exemption or to give an exemption for those. But the gist of it is, that the average person ought to be able to open up an Administrative Rule and understand the rules by which the public has to operate. We felt that the current law was adequate and that the Rules Committee dealt with those minor problems. We felt that this bill was inexpedient to legislate.

Question is on the motion of ought to pass.

Motion failed.

Question is on the motion of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 636-FN-LOCAL, an act requiring local land use boards to prepare a checklist containing the information necessary for submitting an application to the board. Executive Departments and Administration Committee. Vote: 3-2. Inexpedient to legislate. Senator Larsen for the committee.

Senator Stawasz moved to have **SB 636-FN-LOCAL**, an act requiring local land use boards to prepare a checklist containing the information necessary for submitting an application to the board, laid on the table.
Adopted.

LAI D ON THE TABLE

SB 636-FN-LOCAL, an act requiring local land use boards to prepare a checklist containing the information necessary for submitting an application to the board.

CACR 34, an act Relating To: amending the New Hampshire constitution to provide that registers of probate be appointed instead of elected. Providing That: registers of probate shall be appointed instead of elected. Executive Departments and Administration Committee. Vote: 5-0. Inexpedient to legislate. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill is designed to make a constitutional amendment to do away with the requirement that registers at probate be elected. The committee heard testimony from several parties including some city registrars, some were for the bill, but others were against it, they felt that they had performed professional and dedicated services and because they are elected, they are sensitive to the consumers of their services who are the citizens in this state. There was no evidence of citizen dissatisfaction and no great public clamor for this change, so the committee recommended that it be inexpedient to legislate. We felt that the change was unnecessary.

Committee report of inexpedient to legislate is adopted.

SB 501, an act repealing a requirement for keeping records of sales of pistols and revolvers. Fish & Game/Recreation Committee. Majority report: Vote: 4-3. Ought to pass. Senator Rodeschin for the committee. Minority report: Vote: 3-4. Ought to pass with amendment. Senator Wheeler for the committee.

4431L

Amendment to SB 501

Amend the title of the bill by replacing it with the following:

AN ACT

repealing a requirement for keeping records of sales of pistols and revolvers and repealing provisions relative to the purchase of shotguns and rifles in contiguous states and by nonresidents.

Amend the bill by replacing all after the enacting clause with the following:

1 Repeal. The following are repealed:

I. RSA 159:9, relative to records of sales of pistols and revolvers.

II. RSA 159-A, relative to the purchase of shotguns and rifles in contiguous states and by nonresidents.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill repeals a requirement for keeping records of sales of pistols and revolvers.

The bill also repeals RSA 159-A, relative to purchase of shotguns and rifles in contiguous states and by nonresidents, which refers to the Gun Control Act of 1968.

Senator Wheeler moved to have **SB 501**, an act repealing a requirement for keeping records of sales of pistols and revolvers, laid on the table.

Adopted.

LAI D ON THE TABLE

SB 501, an act repealing a requirement for keeping records of sales of pistols and revolvers.

SB 548-FN, an act relative to accidental death benefits for group II members in the New Hampshire retirement system. Insurance Committee. Vote: 4-0. Ought to pass with amendment. Senator J. King for the committee.

4851L

Amendment to SB 548-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to accidental death benefits for group I and group II members in the New Hampshire retirement system.

Amend the bill by inserting after the enacting clause the following and renumbering the original sections 1 and 2 to read as 2 and 3, respectively:

1 Accidental Death Benefits; Group I Members. Amend RSA 100-A:8, I(a) to read as follows:

(a) If, upon the receipt by the board of trustees of proper proof of the death of a group I member in service indicating that such death was the natural and proximate result of an accident occurring while in the performance of duty at some definite time and place, the board decides that death was the result of an accident in the performance of duty and not caused by willful negligence on the part of the member, a state annuity shall be paid to his widow, to continue during her widowhood; or if there is no widow, or if the widow dies or remarries before the youngest child of the deceased member has attained age 18, then to his child or children under such age, divided in such manner as the board in its discretion shall determine, to continue as a joint and survivorship state annuity for the benefit of such child or children under said age until every child dies or attains said age; or if there is no widow or child under age 18 living at the death of the member, then to his dependent father or dependent mother as the board shall determine, to continue for life; or if the deceased member is a female, the foregoing benefits shall be payable to her widower, children or dependent parents only in like manner and amount; provided that if none of the aforementioned beneficiaries is living [at the death of the member no benefit shall be payable under the provisions of this section.] *or eligible for benefits under the provisions of this section, there shall be payable to the person or persons nominated by the member, if living, otherwise to the member's estate, a lump sum amount which is equal to the deceased member's annual earnable compensation at the time of death, in addition to the amount payable under RSA 100-A:11.*

AMENDED ANALYSIS

This bill amends the accidental death benefits payable to the beneficiaries of a group I or group II New Hampshire retirement system member by changing the beneficiaries eligible to receive the benefits by allowing payment to the member's estate or to a person nominated by the member, and the benefits which they receive.

SENATOR J. KING: SB 548 changes the language of statute concerning accidental death benefits so that the language concerning accidental death benefits mirrors the language used in reference to national death benefits. This bill as amended, allows the payment for accidental death to be made by a persons estate or to someone nominated to receive those benefits. This expansion on who could receive benefits would apply to group I as well as group II members. In other words, if you didn't have any heirs, you could name a person that you wanted to be the beneficiary. The committee recommends this bill as ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

SB 560, an act relative to utilization review programs. Insurance Committee. Vote: 6-0. Ought to pass with amendment. Senator Blaisdell for the committee.

5219L

Amendment to SB 560

Amend the bill by replacing section 1 with the following:

1 Utilization Review Determination Standards. Amend RSA 420-E:4, VI to read as follows:

VI. Any clinical review criteria which are utilized shall be developed by referring to published guidelines such as those promulgated by appropriate specialty societies or similar governmental or nonprofit organizations and by involving actively practicing providers from the specialties in question.

VII. Upon reconsideration, as required under paragraph II of this section, utilization review determinations shall be made by persons of the same or similar specialty as the patient's health care provider.

AMENDED ANALYSIS

This bill requires that clinical criteria adopted by utilization review entities be developed through reference to published guidelines recognized by appropriate specialty societies and through the involvement of practicing providers in such specialties.

SENATOR BLAISDELL: Mr. President and members of the Senate, the committee recommends this bill as ought to pass. It is an agreed-to bill between the Medical Society and Health Source and Blue Cross and Blue Shield and any other HMO. They wrote the amendment and we agree to it. We ask that you support the ought to pass as amended motion.

Amendment adopted.

Ordered to third reading.

SB 577, an act providing an option for abortion coverage in health insurance. Insurance Committee. Vote: 4-2. Ought to pass with amendment. Senator Danais for the committee.

5213L

Amendment to SB 577

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a committee to study the issue of implementing individual withdrawal selection for abortion coverage by an individual in a group policy, including premium implications and administrative costs.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is hereby established a committee to study the issue of implementing individual withdrawal selection for abortion coverage by an individual in a group policy, including premium implications and administrative costs. The committee shall be composed of 3 senators appointed by the senate president and 3 representatives appointed by the speaker of the house.

2 Meetings. The first-named senator shall call the first meeting of the committee within 30 days after the effective date of this act. A chair person shall be elected for the committee membership at the first meeting. All subsequent meetings shall be at the call of the chairperson.

3 Compensation and Mileage. Committee members shall not be compensated for their services, but shall receive mileage at the legislative rate when attending to the duties of the committee.

4 Report. The committee shall report its findings and any recommendations for legislation to the governor, senate president, speaker of the house, senate clerk, house clerk, and state library on or before November 1, 1996.

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a committee to study the issue of implementing individual withdrawal selection for abortion coverage by an individual in a group policy, including premium implications and administrative costs.

SENATOR DANAIS: SB 577 would have offered individual members of the group insurance policy, the option to have any provisions relating to the coverage of abortions in the policy removed, so that they wouldn't have to pay the premiums. The committee felt that because of the complexity of the issue, that a study committee should be set up before any action is taken. The committee proposed, in the amendment, will study individuals in group policies being able to take this option, as well as the effect on premiums for these group policies and the implications of the administrative costs. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 604, an act relative to the duties and obligations of health insurers to subscribers in group insurance plans. Insurance Committee. Vote: 4-2. Inexpedient to legislate. Senator Danais for the committee.

SENATOR DANAIS: SB 604 would have required insurance companies to notify all the members of the group policy when the holder of the group policy, the employer, is late with the premium payment. Many companies are regularly late with their premium payments. Small companies

sometimes have trouble because slight business fluctuations have great financial effects on the businesses, requiring late payment. In these cases, the insured would be sending out a constant stream of notices for late payments. The committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 524, an act relative to filing of reports or inventories with the probate court by guardians, fiduciaries, and executors. Judiciary Committee. Vote: 5-0. Ought to pass with amendment. Senator Gordon for the committee.

5198L

Amendment to SB 524

Amend the title of the bill by replacing it with the following:

AN ACT

relative to filing of reports or inventories with the probate court by guardians, fiduciaries, and executors; adopting the uniform disclaimer of property interests act; and relative to jurisdiction of family division courts.

Amend the bill by replacing all after the enacting clause with the following:

1 Bond of Guardian of the Estate of a Minor. RSA 463:27 is repealed and reenacted to read as follows:

463:27 Bond of Guardian of the Estate of a Minor. When a bond is ordered in conjunction with a guardianship of the estate of a minor, no appointment of the guardian shall issue until the bond is furnished to the probate court, with sufficient sureties, in such sum as the court shall approve. A bond without sureties may be ordered in the discretion of the court.

2 Filing of Inventory; Temporary Guardian. Amend RSA 464-A:12, II to read as follows:

II. The court may, with such notice as it deems reasonable to the proposed ward and the court appointed counsel or the proposed ward's private counsel, appoint a temporary guardian for an incapacitated person. The appointment shall be limited to the performance of duties respecting specific property, or to the performance of particular acts necessary to prevent immediate serious physical or mental harm to the proposed ward or immediate serious physical harm to others. [The temporary guardian shall make such reports as the court shall direct and shall account to the court upon termination of the guardianship. No term of temporary guardianship shall exceed 60 days.] ***The temporary guardian of the person and estate, or the estate, shall file an inventory within 30 days after the termination of the guardianship, or be in default. The temporary guardian shall file an account within 90 days after the termination of the guardianship, or be in default. Within 10 days of the temporary guardian's default, the register of probate shall give notice to the fiduciary of the default by first class mail. The temporary guardian shall not file an annual report. No term of temporary guardianship shall exceed 60 days, unless for good cause shown and within the discretion of the court.***

3 Annual Reporting Requirement; Guardian of the Person. Amend the section heading of RSA 464-A:35 and the introductory paragraph of RSA 464-A:35, I to read as follows:

464-A:35 [Biennial] **Annual** Report of the Guardian of the Person.

I. A guardian of the person shall file [a] **an annual** report [biennially] **annually** under oath with the [probate] court [where the guardianship powers were granted] within [90] **30** days [of] **after** the [annual] anniversary date of the guardian's appointment, **or be in default. The register of probate shall give notice of the default to the guardian by first class mail within 10 days of the default. The register of probate shall issue a citation notice in accordance with RSA 548:5-a.** The report shall contain a brief summary of the present status of the ward including, but not limited to:

4 Reference Change; Annual Report; Guardian of the Person. Amend RSA 464-A:35, II to read as follows:

II. A guardian of the person shall give in hand or mail by first class mail a copy of the [biennial] **annual** report to the ward. The court may order service by other means as it deems appropriate. The court may send a copy of the [biennial] **annual** report to any other person it may designate. Unless excused by the court for good cause shown, such designated person, if any, shall make a personal visit to the ward. If the ward or **the** designated person is not satisfied with the report, the ward or **the** designated person may request a hearing [prior to the return date] **within 15 days of the ward's receipt of the report.**

5 Annual Accounting of Guardian of the Estate. Amend RSA 464-A:36, I to read as follows:

I. Subject to the provisions of RSA 464-A:26, V, a guardian of the estate shall file an **annual** account [annually] under oath with the court within 90 days after the anniversary date of the guardian's appointment [as such guardian], **or be in default.** [The account shall contain:

(a) The present personal status of the incapacitated person whose estate is managed by the guardian;

(b) The guardian's plan for preserving and maintaining the estate over which he or she is guardian;

(c) The need for continuation or cessation of the guardianship of the estate;

(d) The need for any alteration in the powers of guardianship.] **The register of probate shall give notice of the default to the guardian by first class mail within 10 days of the default. The register of probate shall issue a citation notice in accordance with RSA 548:5-a.**

6 Annual Accounting of Guardian of the Estate. Amend RSA 464-A:36, III to read as follows:

III. A guardian of the estate shall give in hand or mail by first class mail a copy of the annual account to the ward. The court may order service by other means as it deems appropriate. The court may send a copy of the annual account to any other person it may designate. If the ward or the designated person is not satisfied with the annual account filed by the guardian, the ward or the designated person may request a hearing [prior to the return date] **within 15 days of the ward's receipt of the account.**

7 Settlements on Behalf of Minors. RSA 464-A:42 is repealed and reenacted to read as follows:

464-A:42 Settlements on Behalf of Minors. No settlement, the net amount, as defined in RSA 464-A:2, XIV-a, of which exceeds \$10,000, of any suit or claim brought on behalf of a minor by a parent or next friend is valid unless approved by the appropriate superior or district court in which the action is pending or to which a writ may be made returnable.

In any such settlement, if the amount to be paid to the minor before the age of majority exceeds \$10,000, the superior or district court shall require proof in the form of a certified statement from the probate court that the guardian ad litem, parent, next friend, or other person who receives money on behalf of the minor whether through settlement, judgment, decree or other order, has been appointed guardian of the estate of such minor and is subject to the duties prescribed under RSA 463:19. For good cause shown, the superior or district court may approve a minor's settlement which provides for the payment of settlement proceeds after the minor attains the age of majority. Superior or district court approval is not required for any settlement, the net amount, as defined in RSA 464-A:2, XIV-a, of which is equal to or less than \$10,000, of any suit or claim brought on behalf of a minor by a parent or next friend. In any such settlement, where no amount inures to the minor prior to the age of majority, no guardian of the estate of such minor is required. In the event of a structured settlement where an amount will be paid to the minor both before and after the minor reaches the age of majority, no guardian of the estate of such minor is required if the amount to be paid to the minor before the age of majority is \$10,000 or less. If the amount to be paid to the minor before the age of majority in such structured settlement exceeds \$10,000, then a guardian of the estate of such minor is required.

8 Declaratory Judgments. Amend RSA 547:11-b to read as follows:

547:11-b Declaratory Judgments. Any person claiming a present legal or equitable right or title to real or personal property in the estate of deceased persons or to guardianship, conservatorship, or trust assets may maintain a petition against the estate, guardian, conservator, or trustee to determine the question as between the parties ***and the probate court's judgment or decree thereon shall be conclusive. The existence of an adequate remedy at law shall not preclude any person from obtaining such declaratory relief.***

9 Notice of Default to Fiduciary for Failure to File Inventory. Amend RSA 548:5-a, I to read as follows:

I. [If a fiduciary appointed by the probate court fails for 30 days to file an inventory or for 90 days to file an account of his administration, as required by law, the register of probate shall give notice to him of his default by first class mail no later than 10 days after such default. If the fiduciary fails for 30 days after notice from the register either to file the inventory or his account, or to show good cause for the failure, the judge of probate shall issue a citation to the fiduciary by registered or certified mail, return receipt requested, no later than the next succeeding session of the probate court, to appear before him pursuant to RSA 550:2.] ***A fiduciary appointed by the probate court shall file, as required by law, an inventory within 90 days of the date of appointment, or an account of administration within one year of the date of appointment. If a fiduciary fails to file an inventory within 30 days after the required filing date, or an account of administration within 90 days after the required filing date, the fiduciary is in default. The register of probate shall give notice of the default to the fiduciary by first class mail within 10 days of the default. In the case of any inventory, account, annual report, statement of voluntary administration, or waiver of administration affidavit, the fiduciary shall either file the inventory, account, annual report, statement of voluntary administration, or waiver of administration affidavit, or show good cause for the failure to file,***

within 30 days after notice of the default from the register. If the fiduciary fails to file or to show good cause, the judge of probate shall issue a citation to the fiduciary to appear before the judge pursuant to RSA 550:2. The fiduciary shall pay default and citation fees as established by the supreme court under RSA 490:26-a to the register of probate, pursuant to RSA 490:27. The requirements of this section shall apply to fiduciaries [heretofore] **previously** appointed as the judges of probate may prescribe by rules adopted pursuant to RSA 547:33. [A register of probate shall receive a fee as established by the supreme court under RSA 490:27 which shall be paid by the fiduciary.]

10 Reference to "Account" Changed to "Inventory"; Notice of Default and Citation. Amend RSA 554:1 to read as follows:

554:1 Inventory. Every administrator[, within 3 months after appointment,] shall [return to the probate office,] **file** under oath, **with the court, within 90 days after the date of appointment,** a full, true and itemized [account] **inventory** of all the estate of the deceased which has come to [his] **the administrator's** knowledge. **If an administrator fails to file an inventory within 30 days of the required filing date, the administrator is in default. The register of probate shall give notice of the default to the administrator within 10 days of the default. The register of probate shall issue a citation notice in accordance with RSA 548:5-a.** The inventory shall contain a description of the real estate; a correct schedule of all goods, chattels, stocks, bonds, and other effects of the deceased; of all notes, with their dates and terms of payment, and the date and amount of each endorsement thereon; of all deposits in savings banks, with the name and location of each bank, the number of each book, the date of the last dividend, and the whole amount then due thereon less any withdrawals since that date; and a list and description of [his] **any** other written evidences of debt. If any person claims a present legal or equitable right of title to real or personal property in the estate of the deceased, the administrator may petition the probate court pursuant to RSA 547:11-b to determine the question as between the parties.

11 Executors; Waiver of Administration for Failure to File Affidavit. Amend RSA 554:1-a to read as follows:

554:1-a Waiver of Administration. Notwithstanding any provision of law, whenever a deceased dies testate and the surviving spouse is named in the will as the sole beneficiary of the deceased's estate and has also been nominated and appointed to serve as executor, there shall be no requirement for an inventory of the estate, no requirement for a bond, and no requirement for an accounting for assets; provided, however, that any interested creditor may petition for a full administration of the estate within 6 months after the original grant of administration, and such petition may be granted by the probate court for good cause shown. Administration of the will shall be completed upon the filing of an affidavit with the court, such filing to occur not less than 6 months nor more than one year from the date of appointment of the executor, stating that to the best of the knowledge and belief of the executor there are no outstanding debts or obligations attributable to the deceased's estate. **If the executor fails to file the affidavit within 30 days after the required filing date, the executor is in default. The register of probate shall give notice of the default to the executor by first class mail within 10 days of the default. The register of probate shall issue a citation notice in accordance with RSA 548:5-a.**

12 New Chapter; Uniform Disclaimer of Property Interests Act. Amend RSA by inserting after chapter 563-A the following new chapter:

CHAPTER 563-B

UNIFORM DISCLAIMER OF PROPERTY INTERESTS ACT

563-B:1 Right to Disclaim Interest in Property. A person, including but not limited to any executor, administrator, trustee, guardian, conservator, holder of a power of attorney or any other fiduciary, to whom any property or interest therein devolves, by whatever means, may disclaim it in whole or in part by delivering a written disclaimer under this chapter. The right to disclaim exists notwithstanding any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction.

563-B:2 Time of Disclaimer-Delivery.

I. Except as provided in paragraph III, if the property or interest has devolved to the disclaimant under a testamentary instrument or by the laws of intestacy, the disclaimer shall be delivered, as to a present interest, not later than 9 months after the death of the deceased owner or deceased done of a power of appointment and, as to a future interest, not later than 9 months after the event determining that the taker of the property or interest has become finally ascertained and his interest is indefeasibly vested. The disclaimer shall be delivered in person or mailed by registered or certified mail to any personal representative, or other fiduciary, of the decedent or the done of the power, to the holder of the legal title to which the interest relates, or to the person entitled to the property or interest in the event of disclaimer. A copy of the disclaimer shall be filed in the probate court of the county in which proceedings for the administration of the estate of the deceased owner or deceased done of the power have been commenced.

II. Except as provided in paragraph III, if the property or interest has devolved to the disclaimant under a nontestamentary instrument or contract, the disclaimer shall be delivered, as to a present interest, not later than 9 months after the effective date of the nontestamentary instrument or contract and, as to a future interest, not later than 9 months after the event determining that the taker of the property or interest has become finally ascertained and the taker's interest indefeasibly vested. If the person entitled to disclaim does not have actual knowledge of the existence of the interest, the disclaimer shall be delivered not later than 9 months after the taker had actual knowledge of the existence of the interest. The effective date of a revocable instrument or contract is the date on which the maker no longer has power to revoke it or to transfer to the maker or another the entire legal and equitable ownership of the interest. The disclaimer shall be delivered in person or mailed by registered or certified mail to the person who had legal title to or possession of the interest disclaimed.

III. In any case, as to a transfer creating an interest in the disclaimant made after December 31, 1976, and subject to tax under chapter 11, 12, or 13 of the Internal Revenue Code of 1954, as amended, a disclaimer intended as a qualified disclaimer thereunder must specifically so state and must be delivered not later than 9 months after the later of the date the transfer is made or the day on which the person disclaiming attains age 21.

IV. A surviving joint tenant may disclaim as a separate interest any property or interest therein devolving to a surviving joint tenant by right of survivorship. A surviving joint tenant may disclaim the entire interest in any property or interest therein that is the subject of a joint tenancy devolving to the surviving joint tenant, if the joint tenancy was created by act of a deceased joint tenant and to the extent that the survivor did not contribute to the joint tenancy.

V. If real property or an interest therein is disclaimed, a copy of the disclaimer shall be recorded in the registry of deeds of the county in which the property or interest disclaimed is located.

563-B:3 Form of Disclaimer. The disclaimer shall:

- I. Describe the property or interest disclaimed;
- II. Declare the disclaimer and extent thereof, and
- III. Be signed by the disclaimant.

563-B:4 Effect of Disclaimer.

I. If the property or interest devolved to a disclaimant under a testamentary instrument or under the laws of intestacy and the deceased owner or done of a power of appointment has not provided for another disposition, it devolves as if the disclaimant had predeceased the decedent or, if the disclaimant was designated to take under a power of appointment exercised by a testamentary instrument, as if the disclaimant had predeceased the done of the power. Any future interest that takes effect in possession or enjoyment after the termination of the estate or interest disclaimed takes effect as if the disclaimant had died before the event determining that the taker of the property or interest had become finally ascertained and the taker's interest is indefeasibly vested. A disclaimer relates back for all purposes to the date of death of the decedent, or of the done of the power, or the determinative event, as the case may be.

II. If the property or interest devolved to a disclaimant under a nontestamentary instrument or contract and the instrument or contract does not provide for another disposition, (1) it devolves as if the disclaimant had died before the effective date of the instrument or contract; and (2) a future interest that takes effect in possession or enjoyment at or after the termination of the disclaimed interest takes effect as if the disclaimant had died before the event determining that the taker of the property or interest had become finally ascertained and the interest indefeasibly vested. A disclaimer relates back for all purposes to the effective date of the instrument or contract or the date of the determinative event, as the case may be.

III. The disclaimer or the written waiver of the right to disclaim is binding upon the disclaimant or person waiving and all persons claiming through or under said disclaimant or person.

563-B:5 Waiver and Bar. The right to disclaim property or an interest therein is barred by:

I. An assignment, conveyance, encumbrance, pledge, or transfer of the property or interest, or a contract therefor;

II. A written waiver of the right to disclaim;

III. An acceptance of the property or interest or a benefit thereunder; or

IV. A sale of the property or interest under judicial sale made before the disclaimer is effected.

563-B:6 Remedy Not Exclusive. This chapter does not abridge the right of a person to waive, release, disclaim, or renounce property or an interest therein under any other statute.

563-B:7 Application. An interest in property that exists on the effective date of this chapter as to which, if a present interest, the time for delivering a disclaimer under this chapter, has not expired or, if a future interest, the interest has not become indefeasibly vested or the taker finally ascertained, may be disclaimed within 9 months after the effective date of this chapter.

563-B:8 Uniformity of Application and Construction. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

563-B:9 Short Title. This chapter may be cited as the Uniform Disclaimer of Property Interests Act.

13 Jurisdiction of Family Division Courts. Amend 1995, 152:2, VIII to read as follows:

VIII. The guardianship *over the person* of minors. ***Jurisdiction over guardianships over the estate of a minor, or guardianships over the person and estate of a minor shall remain with the probate court.***

14 Family Division Courthouses. Amend 1995, 152:4, IV to read as follows:

IV. The courthouses in Rockingham county which will house the program shall be the Rockingham county [superior court] ***courthouse***, the Portsmouth district court, the Salem district court, and the Auburn district court. ***In the case of the Auburn district court, the supreme court shall have discretion to designate such other facility within the Auburn or Derry district as it deems appropriate.***

(a) Matters arising in municipalities located within the Portsmouth district and the Hampton district shall be heard in the Portsmouth district court.

(b) Matters arising in municipalities located within the Salem district shall be heard in the Salem district court.

(c) Matters arising in municipalities located within the Auburn district and the Derry district shall be heard in the Auburn district court ***or such other location within the Auburn or Derry district as the supreme court may designate.***

(d) Matters arising in municipalities located within the Exeter district and Plaistow district shall be heard in the Rockingham county [superior court] ***courthouse***.

15 Effective Date. This act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill changes requirements for guardians, fiduciaries, and executors filing reports or inventories with the probate court.

The bill adopts the uniform disclaimer of property interests act.

The bill clarifies that the probate court, rather than family division courts, has jurisdiction of guardianships over the estate of a minor and guardianships over the person and estate of a minor. The bill also makes certain changes regarding the courthouses which house the family division pilot program.

SENATOR GORDON: This bill clarifies the date by which guardians and other fiduciaries must file an account in a court, to the probate court. The bill also adopts the uniform disclaimer of property interests act. This act will greatly improve the law in New Hampshire regarding the rights of persons to claim gifts left to them by their decedent. The Judiciary Committee unanimously approved this bill as amended, and I urge your strong support.

Amendment adopted.

Ordered to third reading.

SB 525, an act relative to declaratory judgments. Judiciary Committee. Vote: 5-0. Ought to pass with amendment. Senator Gordon for the committee.

5179L

Amendment to SB 525

Amend RSA 491:22, I as inserted by section 1 of the bill by replacing it with the following:

I. Any person claiming a present legal or equitable right or title may maintain a petition against any person claiming adversely to such right or title to determine the question as between the parties, and the court's judgment or decree thereon shall be conclusive. ***The existence of an adequate remedy at law or in equity shall not preclude any person from obtaining such declaratory relief.***

AMENDED ANALYSIS

This bill provides that the existence of an adequate remedy at law or in equity will not preclude a person from obtaining declaratory relief.

SENATOR GORDON: This bill clarifies the law in regard to declaratory judgment acts. The bill states that a person may not be precluded from bringing a declaratory judgment action if the person already has another adequate, legal or equitable remedy. One purpose for the declaratory judgment action is to prevent parties from having a court determine whether a certain right or claim of title exists. This mechanism is frequently used in insurance situations to determine whether a particular policy will cover the claim before the party spends the time on litigating the issue or in litigating the underlying issue. I urge the Senate to join the Judiciary Committee in adopting SB 525.

Amendment adopted.

Ordered to third reading.

SB 531, an act relative to the possession of firearms by persons convicted of violent misdemeanors. Judiciary Committee. Vote: 5-1. Inexpedient to legislate. Senator Wheeler for the committee.

SENATOR WHEELER: The current law provides that anyone who has been convicted of a felony can not possess a firearm. This bill would lower that standard down to violent misdemeanors and could include simple assaults. The committee feels that this is too far reaching and it would constitute a confiscation of firearms from otherwise law abiding citizens.

Question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator Wheeler.

Seconded by Senator Colantuono.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Blaisdell, Wheeler, Stawasz, Pignatelli, Colantuono, Podles, Barnes, Russman, Danais, Delahunty, Keough.

The following Senators voted No: Larsen, J. King, Shaheen, Cohen.

Yeas: 20 - Nays: 4

Committee report of inexpedient to legislate is adopted.

SB 545, an act relative to the powers of city councils. Judiciary Committee. Vote: 5-1. Inexpedient to legislate. Senator Wheeler for the committee.

Senator Wheeler moved to have **SB 545**, an act relative to the powers of city councils, laid on the table.

Adopted.

LAIID ON THE TABLE

SB 545, an act relative to the powers of city councils.

SB 563, an act relative to prejudgment interest in civil actions. Judiciary Committee. Vote: 4-0. Inexpedient to legislate. Senator Podles for the committee.

SENATOR PODLES: Mr. President, SB 563 allows the court to collect what is known as prejudgment interest. SB 563 attempts to reverse last years bill, HB 1347 which was signed into law and went into effect just two months ago. It makes sense to allow last years bill to rest for awhile to produce the equitable results it was designed to achieve. The committee recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 638, an act relative to juvenile restitution and parental responsibility. Judiciary Committee. Vote: 6-0. Inexpedient to legislate. Senator Lovejoy for the committee.

SENATOR LOVEJOY: Mr. President, this bill would make parents and guardians jointly and separately liable for offenses committed by juveniles in an amount not greater than \$10,000. The committee felt that this bill would have far reaching detrimental effects in a number of areas such as discouraging foster parenthood, making plea bargains much more difficult and increasing administrative costs to both the courts and the Department of Corrections. As the result, the committee voted unanimously, that this bill be killed.

Committee report of inexpedient to legislate is adopted.

SB 664, an act relative to remedies against licensing authorities for failure to comply with state laws regarding licenses to carry pistols and revolvers. Judiciary Committee. Vote: 5-0. Ought to pass with amendment. Senator Lovejoy for the committee.

5180L

Amendment to SB 664

Amend the bill by deleting section 1 and renumbering sections 2-3 to read as 1-2, respectively.

SENATOR LOVEJOY: Mr. President, the current law prohibits anyone other than law enforcement officials when inspecting and getting licenses issued by municipalities. This bill would give licenses the right TAPE INAUDIBLE in Superior Court with relief and to recover TAPE INAUDIBLE and other provisions over handgun licenses law. The amendment deletes the introductory paragraph of the bill, which the committee felt was unnecessary. The committee urges your strong support.

Amendment adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Wheeler.

Seconded by Senator Stawasz.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Blaisdell, Wheeler, Stawasz, Colantuono, Larsen, Podles, Barnes, J. King, Russman, Danais, Shaheen, Delahunty, Keough, Cohen.

The following Senators voted No: Pignatelli.

Yeas: 23 - Nays: 1

Ordered to third reading.

SB 602, an act relative to pecuniary benefits for directors and officers of charitable trusts. Public Affairs Committee. Vote: 4-0. Inexpedient to legislate. Senator Rubens for the committee.

SENATOR RUBENS: SB 602 is inexpedient to legislate because the House recently passed a much more comprehensive bill dealing with pecuniary benefits for members of charitable trusts. The House spent a considerable amount of time in their subcommittee resolving disputes over the issue. The bill will come over to the Senate and we will have another pass and another opportunity to examine this issue again, which I hope we will do; therefore, the committee recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

NOTICE OF RECONSIDERATION

Senator Blaisdell moved reconsideration on **SB 664**, relative to remedies against licensing authorities for failure to comply with state laws regarding licenses to carry pistols and revolvers, whereby we ordered it to third reading.

Adopted.

SB 664, relative to remedies against licensing authorities for failure to comply with state laws regarding licenses to carry pistols and revolvers.

Question is on ordering to third reading.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Blaisdell.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Blaisdell, Wheeler, Stawasz, Pignatelli, Colantuono, Larsen, Podles, Barnes, J. King, Russman, Danais, Shaheen, Delahunty, Keough, Cohen.

The following Senators voted No:.

Yeas: 24 - Nays: 0

Ordered to third reading.

SB 632, an act requiring municipal water companies to provide notice and opportunity to certain tenants prior to termination of service. Public Affairs Committee. Vote: 4-0. Ought to pass with amendment. Senator J. King for the committee.

5161L

Amendment to SB 632

Amend the bill by replacing section 1 with the following:

1 New Paragraphs; Notice Prior to Termination Required. Amend RSA 38:22 by inserting after paragraph II the following new paragraphs:

III. Notwithstanding any other provision of law to the contrary, except as provided in paragraph VII of this section, no municipally owned water company shall disconnect service to a customer if any part of the service provided accrues to the benefit of one or more parties known by the company to be residential tenants, unless the company gives written notice to the tenants. Such notice shall set forth:

(a) The date on or after which the company proposes to disconnect service.

(b) A statement that the reason for disconnection is a dispute between the company and the landlord.

(c) A statement that the tenant should contact the landlord for more information.

(d) A statement that the tenant has a right to seek an order from the district court directing the landlord to pay for the water service pursuant to RSA 540-A:3.

(e) A statement that the tenant has a right to put service in his or her own name and thereby become the customer of record.

(f) An address and telephone at which the tenant may contact the utility.

IV. A municipally owned water company shall provide service to a tenant in the tenant's own name as customer of record if so requested, without requiring the tenant to pay any part of the landlord's past due balance as a condition of receiving the service. The utility shall provide direct service to the person requesting it on terms and conditions applicable to all residential customers.

V. Immediately upon learning that a tenant has been disconnected without the notice required in paragraph III, the water company shall reconnect service at no cost to the tenant, and shall proceed with proper notice pursuant to this section.

VI. The notice required by paragraph III shall be provided to the tenant no less than 10 days in advance of the proposed disconnection, by posting a conspicuously lettered notice on the main entrance door to each building in which service is being terminated. In addition, the company shall post the notice on a back door or side door to which the company has reasonable access, or in a common area of each building.

VII. The notice to tenants required by paragraph III of this section shall not be required when necessary to avoid danger to life or property, and upon the order of a duly constituted public authority such as police, firefighters, public health officers, and building inspectors.

SENATOR J. KING: SB 632 requires the municipal water companies to notify a building tenant before services are terminated for lack of payment. Testimony suggested that there are instances where the landlord falls behind or completely stops paying the water bill. As a result, the services are disconnected leaving the tenants unaware of the problems and unable to resolve it. As amended, SB 632 requires the water companies to post in common areas of the building, notices that services will be disconnected and information saying that it is not the tenants liability to assume responsibility for the account. The committee recommends SB 632 as ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

SB 667, an act naming the new Coos county courthouse the John D. Morton, Sr. courthouse. Public Affairs Committee. Vote: 4-0. Ought to pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, SB 667 is a request of the Coos county citizens seeking to memorialize John D. Morton, Sr. who recently passed away. Mr. Morton spent most of his extraordinary life serving the people in Coos county in many capacities, including his roles as county sheriff, county treasurer. At the time of his death, Mr. Morton was serving as the chairman of the New Hampshire Police Standards and Training. John D. Morton, Sr. was a rare individual and naming the Coos County Court House after him is an appropriate way to honor his life as a public servant. The Public Affairs Committee unanimously recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

SB 511, an act allowing a motor vehicle manufacturer or distributor to charge back certain service and sales claims to dealers. Transportation Committee. Vote: 6-0. Ought to pass with amendment. Senator Stawasz for the committee.

5130L

Amendment to SB 511

Amend the title of the bill by replacing it with the following:

AN ACT

regulating business practices among motor vehicle manufacturers, distributors, and dealers.

Amend the bill by replacing all after the enacting clause with the following:

1 Unfair and Deceptive Practices. Amend RSA 357-C:3, III(m) and (n) to read as follows:

(m) Require a motor vehicle dealer to assent to a release assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by this chapter; [or]

(n) Impose unreasonable restrictions on the motor vehicle dealer or franchisee relative to transfer, sale, right to renew, termination, discipline, noncompetition covenants, site-contract, right of first refusal to purchase, option to purchase, compliance with subjective standards, or assertion of legal or equitable rights;

(o) To change the relevant market area set forth in the franchise agreement without good cause. For purposes of the subparagraph, good cause shall include, but not be limited to, changes in the dealer's registration pattern, demographics, customer convenience, and geographic barriers.

2 Reference Changed to Board. Amend RSA 357-C:4 to read as follows:

357-C:4 Delivery and Preparation Obligations. Every manufacturer shall specify to the dealer, the delivery and preparation obligations of its motor vehicle dealers prior to delivery of new motor vehicles to retail buyers. A copy of the delivery and preparation obligations of its motor vehicle dealers and a schedule of the compensation to be paid by it to its motor vehicle dealers for the work and services they shall be required to perform in connection with such delivery and preparation obligations shall be filed with the [attorney general] **motor vehicle board** by every motor vehicle manufacturer. The compensation as set forth on such schedule shall be reasonable in the same manner as provided in RSA 357-C:5, II(b). No dealer shall charge any purchaser for work or services paid for by the manufacturer.

3 Limitation on Warranty Sales and Service Audits Added. Amend RSA 357-C:5, II(d) to read as follows:

(d)(1) All claims made by new motor vehicle dealers pursuant to this section for labor and parts shall be paid within 30 days following their approval. All such claims shall be either approved and paid or disapproved within 30 days after their receipt, and any claim not specifically disapproved in writing within such period shall be deemed approved. Notice of rejection of any claim shall be accompanied by a specific statement of the grounds on which the rejection is based.

(2) *A manufacturer, distributor, branch, or division shall retain the right to audit warranty claims for a period of one year after the date on which the claim is paid and charge back any amounts paid on claims that are false or unsubstantiated.*

(3) *A manufacturer, distributor, branch, or division shall retain the right to audit all incentive and reimbursement programs for a period of 2 years after the date on which the claim is paid and charge back any amounts paid on claims that are false or unsubstantiated.*

(4) *Any new motor vehicle dealer who is audited by a manufacturer, distributor, branch, or division shall have the right to be present or represented by counsel or other designated representative.*

(5) *Any chargeback resulting from any audit shall not be made until a final order is issued by the motor vehicle board if a protest to the proposed chargeback is filed within 30 days of the notification of the amount claimed by the manufacturer, distributor, branch, or division to be due. If the chargeback is affirmed by a final order of the board, the dealer shall be liable for interest on the amount set forth in the order at a rate of the prime rate effective on the date of the order plus one percent per annum from the date of the filing of the protest. In the absence of fraud, the board may order, based on the equities and circumstances of the parties, that the chargeback plus applicable interest be paid in installments not exceeding 12 months. If the board finds that a warranty chargeback is the result of a fraudulent warranty claim, no installment payments shall be allowed by the board.*

(6) *A manufacturer, distributor, branch or division shall retain the right to charge back a fraudulent warranty claim, subject to any limitation period established in the franchise agreement but in no event longer than the limitation period provided in RSA 508:41. The applicable limitation period shall commence on the date a fraudulent warranty claim is paid.*

4 Agreements. Amend RSA 357-C:6, I and II to read as follows:

I. All written or oral agreements of any type between a manufacturer[,] or distributor and a motor vehicle dealer shall be subject to the provisions of this chapter, and provisions of such agreements which are inconsistent with this chapter shall be void as against public policy and unenforceable in the courts *or the motor vehicle board* of this state.

II. Before any new selling agreement or amendment [thereto] *to an agreement* involving a motor vehicle dealer and such party becomes effective, the manufacturer, distributor, distributor branch or division, factory branch or division, or agent thereof shall, 90 days prior to the effective date thereof, forward a copy of such agreement or amendment to the [attorney general] *motor vehicle board* and to the dealer.

5 Limitations on Cancellations, Terminations, and Nonrenewals. Amend RSA 357-C:7, I to read as follows:

I. Notwithstanding the terms, provisions, or conditions of any agreement or franchise, and notwithstanding the terms or provision to any waiver, no manufacturer shall cancel, terminate, fail to renew, or refuse to continue any franchise relationship with a licensed new motor vehicle dealer unless [the manufacturer has]:

(a) **The manufacturer has** satisfied the notice requirement of paragraph V;

(b) **The manufacturer has** acted in good faith; [and]

(c) **The manufacturer has** good cause for the cancellation, termination, nonrenewal, or noncontinuance; **and**

(d)(1) **The motor vehicle board finds after a hearing that there is good cause for cancellation, termination, failure to renew, or refusal to continue any franchise relationship. The new motor vehicle dealer may file a protest with the board within 45 days after receiving the 90-day notice. A copy of the protest shall be served by the new motor vehicle dealer on the manufacturer. When a protest is filed, the manufacturer may not cancel, terminate, fail to renew, or refuse to continue dealing with the new motor vehicle dealer in the ordinary course of business until the board makes its findings; or,**

(2) **The manufacturer has received the written consent of the new motor vehicle dealer, or the appropriate period for filing a protest has expired.**

6 Notification of the Board. Amend RSA 357-C:7, V(a) to read as follows:

V.(a) Notwithstanding the terms, provisions, or conditions of any agreement or franchise or the terms or provisions of any waiver, prior to the termination, cancellation, or nonrenewal of any franchise, the manufacturer shall furnish notification of such action to the new motor vehicle dealer **and the board** in the manner described in subparagraph (b) not less than 90 days prior to the effective date of such termination, cancellation, or nonrenewal, except that the notice required of a controlled financing company of a manufacturer shall be that period set forth in its contract with the dealer.

7 Limitations on Establishing or Relocating Dealerships. Amend RSA 357-C:9 to read as follows:

357-C:9 Limitations On Establishing Or Relocating Dealerships.

I. In the event that a manufacturer seeks to enter into a franchise establishing an additional new motor vehicle dealership or relocating an existing new motor vehicle dealership within a relevant market area where the same line make is then represented, the manufacturer shall first give written notice to the [attorney general] **motor vehicle board** and each new motor vehicle dealer of such line make in the relevant market area of the intention to establish an additional dealership or to relocate an existing dealership within that market area. Within 15 days of receiving such notice or within 15 days after the end of any appeal procedure provided by the manufacturer, any such new motor vehicle dealership may file a protest with the [attorney general] **motor vehicle board** to the establishing or relocating of the new motor vehicle dealership. **A copy shall be served on the manufacturer within the 15-day period.** When such protest is filed, the [attorney general shall inform the manufacturer that a timely protest has been filed, and that the] manufacturer may not establish or relocate the proposed new motor vehicle dealership until the [superior court] **board** has held a hearing, nor thereafter if the [court] **board** determines that there is good

cause for not permitting such new motor vehicle dealership. For purposes of this paragraph, the reopening in a relevant market area of a new motor vehicle dealership that has not been in operation for one year or more shall be deemed the establishment of an additional new motor vehicle dealership.

II. In determining whether good cause has been established for not entering into or relocating an additional franchise for the same line make, the [attorney general] **board** shall consider the existing circumstances, including, hut not limited to:

(a) The permanency of the investment;

(b) Any effect on the retail new motor vehicle business and the consuming public in the relevant market area;

(c) Whether it is injurious or beneficial to the public welfare for an additional new motor vehicle dealership to be established;

(d) Whether the new motor vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of the line make in the market area which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of motor vehicle parts, and qualified service personnel;

(e) Whether the establishment of an additional new motor vehicle dealership would increase competition, and therefore be in the public interest; and

(f) Growth or decline in population and new car registration in the relevant market area.

III. [Any party may request a hearing by the superior court concerning the establishment or relocation of a new motor vehicle dealership on an expedited basis, subject to the right to receive reasonable and prompt discovery.] ***At any hearing conducted by the motor vehicle board under this section, the manufacturer seeking to establish an additional new motor vehicle dealership or relocate an existing new motor vehicle dealership shall have the burden of proof in establishing that good cause exists.***

8 Enforcement; Motor Vehicle Board; Fund Established. RSA 357-C:12 is repealed and reenacted to read as follows:

357-C:12 Enforcement; Motor Vehicle Board; Fund Established.

I.(a) There is established a New Hampshire motor vehicle board for the purpose of enforcing the provisions of this chapter. The board shall consist of the commissioner of the department of safety or designee who shall serve as the board's chairperson, and 6 members appointed by the governor and council as follows: 2 factory representatives, 2 members of the general public, and 2 new motor vehicle dealers. Four members of the board shall constitute a quorum. Two alternate new motor vehicle dealer members and one factory representative member shall be appointed by the governor and council to fill vacancies created by conflict of interest recusals of these member categories.

(b) The board shall be administered by the commissioner of the department of safety.

(c) The board shall adopt rules, pursuant to RSA 541-A, to implement the provisions of this chapter.

(d) Appointments shall be for terms of 4 years, and no person shall be eligible to serve more than 2 successive 4-year terms. Vacancies shall be filled by appointment by the governor and council for the unexpired term. Any person appointed to fill a vacancy may serve 2 additional successive terms. The members shall be at-large members, and insofar as practical, should reflect fair and equitable statewide representation.

(e) Terms of the initial board members and alternates shall be staggered with one member of each representative group having a term of 3 years and one member of each group serving a term of 4 years.

(f) Appointed members of the board may be paid a \$50 per diem for each day actually engaged in the performance of their duties and may be reimbursed their actual and necessary expenses incurred in carrying out their duties as may be authorized by the governor and council.

II. Except for civil actions filed in superior court pursuant to paragraph IX of this section, the board shall have the following exclusive powers:

(a) Any person may file a protest with the board complaining of conduct governed by and violative of this chapter. The board shall hold a public hearing in accordance with the rules adopted by the board pursuant to RSA 541-A.

(b) The board shall issue written decisions and may issue orders to any person in violation of this chapter.

III. The parties to protests filed pursuant to RSA 357-C:7, RSA 357-C:8, and RSA 357-C:9 shall be permitted to conduct and use the same discovery procedures as are provided in civil actions in the superior court.

IV. The board shall be empowered to determine the location of hearings, appoint persons to serve at the deposition of out-of-state witnesses, administer oaths, and authorize stenographic or recorded transcripts of proceedings before it.

V. Compliance with the discovery procedures authorized by paragraph III may be enforced by application to the board. Obedience to subpoenas issued to compel witnesses or documents may be enforced by application to the superior court in the county where the hearing is to take place.

VI. Any party to any proceeding under this chapter who recklessly or knowingly fails, neglects, or refuses to comply with an order issued by the board shall be fined a civil penalty not to exceed \$2,500. Each day of noncompliance shall be considered a separate violation of such order.

VII. Within 20 days after any order or decision of the board, any party to the proceeding may apply for a rehearing with respect to any matter determined in the proceeding, or covered or included in the order or decision. The application for rehearing shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. No appeal from any order or decision of the board shall be taken unless the appellant makes an application for rehearing as provided in this paragraph, and when such application for rehearing has been made, no ground not set forth in the application shall be urged, relied on, or given any consideration by a court unless the court for good cause shown allows the appellant to specify additional grounds. Any party to the proceeding may appeal to the superior court within 30 days after the date the board rules on the application for reconsideration. All findings of the board upon all questions of fact properly before the court shall be prima facie lawful and reasonable. The order or decision appealed from shall not be set aside or vacated except for errors of law. No additional evidence shall be heard or taken by the superior court on appeals from the board.

VIII.(a) The New Hampshire motor vehicle board fund is established as a special fund in the state treasury. The fund shall be revolving, continually appropriated and nonlapsing. Except as otherwise provided in this chapter, all fees and civil penalties collected as provided in this chapter shall be paid into the state treasury immediately upon collection and credited to the motor vehicle board fund.

(b) To fund the motor vehicle board fund and to pay the expenses of administration and enforcement of this chapter, the board shall impose an annual fee upon each new motor vehicle dealer of \$100 for each vehicle make represented by that dealer, and an annual fee of \$1,000 for each manufacturer which sells or distributes new motor vehicles within the state. However, in no case shall the annual fee imposed upon any new motor vehicle dealer exceed \$500 per year. Upon the filing of a protest under this chapter, the protesting party shall pay into the fund a fee of \$1,500.

IX. Notwithstanding the terms, provisions, or conditions of any agreement or franchise or the terms or provisions of any waiver, any person whose business or property is injured by a violation of this chapter, or any person so injured because such person refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of this chapter, may bring a civil action in the superior court to recover the actual damages sustained by such person together with the costs of the suit, including a reasonable attorney's fee.

9 New Subparagraph; Designated Fund. Amend RSA 6:12, I by inserting after subparagraph (III) the following new subparagraph:

(mmm) Moneys deposited in the motor vehicle board fund established in RSA 357-C:12.

10 Repeal. RSA 21-M:9, II(g), relative to administration and enforcement of RSA 357-C by the department of justice.

11 Effective Date.

I. Sections 1-3 of this act shall take effect 30 days after its passage.

II. The remainder of this act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill establishes a motor vehicle board for the purposes of regulating business practices among motor vehicle manufacturers, distributors, and dealers.

SENATOR STAWASZ: SB 511 creates a seven-member motor vehicle board for the purpose of handling dealer manufacturer disputes. Currently these infrequent disputes are resolved through the court system which is costly and time consuming. The board is represented by a designee from the Department of Safety and two members of the general public and two factory representatives and two dealers. The factory and dealer members are intended to provide the board with in-depth knowledge of the industry. Other features of SB 511 include new restrictions on motor vehicle manufacturers in regard to the franchise agreements, authorization for manufacturers to audit service and sales claims, and regulations on charge-backs to the dealers on unsubstantiated claims. We recommend ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 475-L, enabling municipalities to create regional transit districts. Transportation Committee. Vote: 6-0. Ought to pass. Senator Cohen for the committee.

SENATOR COHEN: HB 475 is intended to facilitate the development of public transportation in this state. Unlike New Hampshire, many states already have in place, well-developed forms of public transportation. New Hampshire's needs in this area are great and are expanding, particularly among the elderly population. Testimony suggested that municipalities would be able to satisfy these growing needs more effectively with the

collaborative efforts of a formally recognized regional transit district than they could individually. The Transportation Committee unanimously recommends HB 475 as ought to pass.

Adopted.

Ordered to third reading.

SB 517-LOCAL, an act limiting the property tax exemption for real estate used as rental property by nonprofit charitable organizations. Ways and Means Committee. Vote: 6-0. Ought to pass with amendment. Senator Colantuono for the committee.

5131L

Amendment to SB 517-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to a property tax exemption for real estate used as rental housing by certain nonprofit charitable organizations and relative to assessments against owners of property in central business districts.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Real Estate Used as Rental Housing by Nonprofit Charitable Organizations. Amend RSA 72 by inserting after section 23-m the following new section:

72:23-n Real Estate Used as Rental Housing by Nonprofit Charitable Organizations.

I. Real estate used as rental housing by nonprofit charitable organizations that are not subject to the provisions of RSA 72:23-k, I shall qualify for a tax exemption if at least 50 percent of the rental housing units in such property are affordable to persons of low income.

II. For purposes of this section:

(a) "Affordable" means housing, the combined rental and utility costs of which do not exceed 30 percent of the gross income of persons of low income.

(b) "Persons of low income" means any single individual or any family whose gross income is less than 50 percent of the median income of, respectively, all single persons or all families, adjusted for number of members residing in the appropriate area of the state as published periodically by the United States Department of Housing and Urban Development or its successor.

III. For purposes of this section, a one-bedroom unit shall be affordable to a 2-person household, a 2-bedroom unit shall be affordable to a 3-person household, and units with 3 or more bedrooms shall be affordable to a 4-person household.

IV. Rental units which are directly assisted under state law or by the United States Department of Housing and Urban Development or its successor agency shall be considered affordable if the portion of the rent and utility costs payable by a low-income tenant does not exceed 30 percent of the tenant's gross income.

V. On or before March 1 of each year the owner of real estate requesting an exemption under this section shall file with the municipality a statement demonstrating compliance with the requirements of paragraph I.

VI. This section shall be applicable to nonprofit charitable organizations, the primary mission of which is to provide affordable rental housing.

2 Assessments; Central Business Service Districts. Amend RSA 31:124 to read as follows:

31:124 Assessments. Upon local adoption of the budget, the municipality may levy assessments in an amount not greater than the net appropriation to a central business service district account. The assessments shall be made against the owners of *commercial and industrial properties and such other types of property as may be determined by the municipality* abutting any public right-of-way in the central business service district and shall be based upon the relative linear foot frontage of the owner's property as a percentage of the total linear foot frontage *of the applicable property* in the district or another formula determined by the municipality to be in relative proportion to benefits received by each property owner in the central business service district. Assessments shall be billed and collected as specified by ordinance. Interest and other collection procedures shall be made by the tax collector or other official responsible for property tax collection. Enforcement powers for nonpayment shall be the same as those provided under RSA 80 relative to property tax collection.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a property tax exemption for real estate used as rental housing by nonprofit charitable organizations that are not subject to the provisions of RSA 72:23-k, I, which relates to an exemption for community housing and community health care facilities for elderly and disabled persons.

This bill restricts assessments against owners of property in central business service districts, for additional services provided to the district to commercial and industrial property owners.

SENATOR COLANTUONO: SB 517 as amended tightens the language of the original bill in the current law to establish a property tax exemption for real estate used as rental housing by nonprofit charitable organizations by requiring at least 50 percent of the rental housing units in such property to be affordable to persons of low income; furthermore, the bill as amended, adds a further amendment from Senator Danaïs for the benefit of the city of Manchester, to restrict assessments against the owners of property in central business service districts only to commercial or industrial properties. This is to solve a problem that Manchester has in which they don't want to be assessing condominiums and residential units within their central business and service district.

Amendment adopted.

Ordered to third reading.

5152

Enrolled Bill Amendment to SB 133-FN-A

Amend the bill by replacing section 9 with the following:

9 Repeal. The following are repealed:

I. RSA 21-O:15-22, relative to the pollution prevention program.

II. RSA 147-B:7, V, relative to use of funds for the pollution prevention program.

Senator Currier moved adoption.

Adopted.

TAKEN OFF THE TABLE

Senator Johnson moved to have **SB 514**, relative to the definition of personal watercraft.

Adopted.

SB 514, relative to the definition of personal watercraft.

Question is on ought to pass.

Senator Johnson offered a floor amendment.

5081L

Floor Amendment to SB 514

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the definition of personal watercraft and authorizing certain residents to petition the commissioner of safety to allow the use of personal watercraft on previously restricted water bodies.

Amend the bill by replacing all after section 4 with the following:

5 Petition to Allow Certain Personal Watercraft on Previously Restricted Water Bodies. Any group of 10 or more residents or property owners of a town in which a lake, pond, or river is located which has been the subject of a personal watercraft restriction or prohibition ordered by the commissioner, pursuant to RSA 270:74-a, may petition the commissioner to allow the use on that body of water of personal watercraft with a capacity of more than 2 persons.

6 Effective Date. This act shall take effect October 1, 1996.

AMENDED ANALYSIS

This bill:

- (1) Changes the definition of "ski craft" to "personal watercraft."
- (2) Authorizes residents of certain water bodies to petition the commissioner of safety to allow the use of certain personal watercraft on previously restricted water bodies.

SENATOR JOHNSON: SB 514 as amended, I believe the amendment is being passed out at this moment. The floor amendment to SB 514 addresses two concerns that some of the members of this body had. Number one, it was in the current legislation, I believe that it stated that "hearings could no longer be held after the year 1998." We have removed that from the amendment. The effective date which we have discussed in the past, will not take effect on October 1, 1996. That would give the Department of Safety enough time to set up the process for hearings. Those are the two concerns that, I believe, people were concerned about. I would ask that with this floor amendment, that you would vote ought to pass as amended on SB 514. Thank you.

SENATOR FRASER: Senator Johnson, in reading the amendment, which I am seeing now for the first time, why wouldn't it be more appropriate to have this language say that on a petition of ten or more citizens, personal watercraft could be excluded from on a lake or on a pond?

SENATOR JOHNSON: Going with the past piece of legislation in place, this is what has been in the past, I am assuming that that has worked

well. I have not heard from the Department of Safety or any other groups that they were opposed to that language, so I would assume that this language is appropriate as brought forth in this amendment.

SENATOR FRASER: Thank you.

Floor amendment adopted.

SUBSTITUTE MOTION

Senator Podles moved to substitute **Ought to pass with amendment for interim study.**

SENATOR PODLES: Mr. President, my constituency has given me a lot of letters and also made a lot of phone calls to me about this bill. It is controversial and the amendment has not had a public hearing. It is very unfair to the people of New Hampshire who have purchased these and have made a large investment, to limit access to the lakes. The state, as I understand it, will also lose revenue of about \$50,000 because of the change in the registration fee if this bill passes. I propose interim study.

SENATOR JOHNSON: Senator Podles, could you tell me where you got the information that it would cost the state \$50,000?

SENATOR PODLES: Well, as I understand it, it does change the registration fee somehow, and there will be a reduction.

SENATOR JOHNSON: That doesn't answer my question. Where did you get the information on the \$50,000?

SENATOR PODLES: I got the information on \$50,000.

SENATOR JOHNSON: I have researched this with the Department of Safety, Senator Podles, and at the maximum, it would be \$15,000, which is a far cry from \$50,000.

SENATOR PODLES: But it is a loss of revenue.

SENATOR CURRIER: Senator Johnson, could you elaborate on how you divide what figure into what figure to get how many personal watercraft would not be registered as a result of this bill? Do you understand the question?

SENATOR JOHNSON: Yes, I do. I believe that they ran those figures and when they came up with this figure of \$15,000, I believe that the Department of Safety and Marine Patrol, went through the whole listing and came up with this figure.

SENATOR CURRIER: How many watercrafts and what registration fee does \$15,000 represent, that is the question?

SENATOR JOHNSON: I believe that is somewhere in the order of 350 to 400 registrations.

SENATOR CURRIER: And the fee is \$25?

SENATOR JOHNSON: Yes.

SENATOR CURRIER: So in other words, you don't have any more information then Senator Podles does?

SENATOR JOHNSON: Yes, I do and I can research it if you would like me to do that. I can take it out of my folder here, but that figure is the figure that we did research on.

SENATOR FRASER: Mr. President, I have many dealers in my district, plus I have many on the rest of the big lakes, and I also have a number of small lakes in my district as well. One of the problems that this bill

has given rise to, was the fact that a number, unfortunately, I can't give you the specific numbers, but there was quite a number of people who had the one and two-seater jet skis, and when that bill passed, which was probably about four years ago, if I recall correctly, those people traded in those one and two-seaters in for the three and four-seaters because of the fact that they didn't want to have their ability to use those watercraft only in a restricted area. Now we are coming back and saying those three and four-seaters, which by the way, have the same or less decibel rating, than the one and two-seaters. Now we are coming back and saying how we want to regulate and restrict the use of these three and four-seaters. I would urge this body to support Senator Podles motion to send this bill to study.

Motion failed.

SENATOR STAWASZ: Senator Johnson, I know from my experience on the Wetlands Study Board where we had numerous hearings around the state, that lakes, docks and other things on our shorefront, tend to produce good turnouts at the public hearings, I guess that you could say. What we constantly heard was that the state's lakes and ponds were part of our public domain and that the use of them was really a right for all of the citizens of this state. I wonder if your floor amendment has room to say that the residents and property owners of the town, any ten of them could petition or any ten citizens of the state who had a duly registered personal watercraft might also have that right. Is that a consideration that would be workable to give all of the citizens in New Hampshire equal petitions rights to the public waters?

SENATOR JOHNSON: Senator Stawasz, the only rebuttable that I would have for that is TAPE INAUDIBLE.

Senator Keough moved the question.

Adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Fraser.

Seconded by Senator Blaisdell.

The following Senators voted Yes: Gordon, Johnson, Rubens, Roberge, Blaisdell, Stawasz, Pignatelli, Larsen, Barnes, J. King, Russman, Danais, Delahunty, Keough, Cohen.

The following Senators voted No: F. King, Fraser, Lovejoy, Currier, Rodeschin, Wheeler, Colantuono, Podles, Shaheen.

Yeas: 15 - Nays: 9

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Colantuono moved to have **SB 665-FN**, an act relative to liquor licenses for a sports/entertainment complex, taken off the table.

Adopted.

SB 665-FN, an act relative to liquor licenses for a sports/entertainment complex.

SENATOR COLANTUONO: If the members recall, this bill came out of the Ways and Means Committee with a recommendation of ought to pass as amended. I think the vote was 4 to 2. The amendment on page 78 has not been voted on yet. I rose to take exception to that language because

I thought that it was not in the best interest of the university to be granting a liquor license to their sports center over there. It would in effect, allow liquor to be sold during their college events. I thought that was sending a bad message. I thought that we should be taking a pro-active role here, to not allow that, and as a result, what happened after the bill went onto the table, was that an amendment was brought forward, as a floor amendment, and it was drafted by one of the inspectors from the state liquor commission, that states that as a compromise, that liquor can be sold during the collegiate events, but only . . . well actually, it states that liquor cannot be sold in the stadium seating areas. The practical effect of that would be that liquor can be sold in the sky boxes and in the entertainment center, it is like a little club that they have there. After my remarks and the remarks of the other senators that were printed in the newspaper, I got several calls from several constituents congratulating me for taking the stand against the allowance of the liquor license for all of the university events. I had one mother from Londonderry send me a letter, I believe that I had copies made and you all should have received it. She said that she is a mother of UNH students, and I heard from another father from Hudson who is a father of UNH students, and they are very concerned as parents about the drinking that is going on at the university. This mother from Londonderry sent me an article from the UNH parents magazine. I also had that copied and sent around to all of you. I hope that you read it. Basically, this article says that according to statistics from the annual survey of college students at two and four-year schools, by the U.S. Department of Education, students at New England colleges and universities drink more often and more heavily than their peers outside of the region. UNH students, unfortunately, are not immune from this trend. According to this survey, the average college student nationwide, drinks 4.5 drinks a week. At UNH, the average is 7.0. Fifty-one percent of UNH students met the surveys criteria of binge drinkers. That is that they consume more than five drinks in one sitting, compared to 39 percent at an average university in the U.S. The message that she gave me was that drinking at the university is probably the biggest social problem there. I have a concern as a legislator, and we all should have the same concern, that we are elected leaders in this state, we are here to make policies and set examples and try to do what is right. I don't believe that we should be granting the university a license to sell alcohol at the university events. I offer a further floor amendment, which I believe is going to come first. It would simply take the original language of the amendment that is printed in the first calendar, and adds to the language that is already in there, that says that alcohol may not be sold at interscholastic events, meaning high schools games. It adds the words and intercollegiate events. If you recall the argument last time, the logic is the same in both cases. We are not allowing alcohol sales at interscholastic events because all high school kids are under the age of drinking, they are under the age of 21. The fact of the matter is, that most college age kids are, too. Most college kids, not all, but most. The problem that I have with the compromised amendment that would let the alcohol be sold in the sky boxes but not in the stadium seating area, is that according to the testimony that we heard at the committee hearing, is that there is really no effective way of policing this. They claim that there is no way for a student from the stadium seating area to get up into the sky boxes, but they admitted that there was no effective way to prevent people in the sky boxes, which could include students, if they are there with their parents or some business

or what have you, from going down into the stadium seating area. So you know that if liquor is being sold during a game, you know that it is going to get down into the stadium seating area. There is no effective way to police the fact that underage drinkers are going to be getting it. That is why I oppose the idea of just leaving it up to the liquor commission. It is our job to set the rules. As I said before, the buck stops here with us. I think that we should take the strong stand and to make a statement that we recognize that the drinking at the university is a big problem and we want to do something to correct it now. There is a concern that this bill would apply to any other stadium facilities that might be built, CenterPlex, QuadraPlex, baseball stadiums, I think that it is a good rule to have there, too. I don't think that there should be alcohol sales at any collegiate event. I found out from the liquor commissioner, that NCAA championship events, they don't allow liquor to be sold anywhere, including the Fleet Center, the Meadowlands, anywhere, they don't allow it, because they think that it detracts from the college atmosphere. So I would urge the body to vote no on the committee amendment that we have to vote on first, then to adopt my floor amendment. Thank you.

SENATOR SHAHEEN: I would echo Tom's comments relative to the committee amendment that is in the Senate Journal and relative to the compromise which would prohibit alcohol from being served in the public seating area at the Whittemore Center, but allow it in the sky boxes and other facilities, which are used for bringing in groups and other activities. I think that it is important to point out . . . I also agree with Tom relative to my concern about drinking on the premises. I have a 21-year-old daughter and one of the things that she says to me when she comes home is that she thinks that there is too much drinking that goes on. I think that we would all agree with that. But I guess that I don't think that that is the issue. UNH has a lot of resources dedicated to prohibiting the consumption of alcohol on campus. They are trying to address the problem and there is no intent on the part of the committee to allow drinking in the public seating area, nor to allow students who are underage to drink. That is not the intent of the bill. They are just opposed to that as the legislature ought to be and anybody else who is concerned. In fact, UNH is participating and directing an effort on campus that involves the campus and its youth to try to limit the alcohol and drug consumption, not only on campus, but when the other schools from in the community and from other areas. So I don't think that is the issue. I think the issue here is, as the liquor commission determines when they try to set up the license that would include not only the Whittemore Center, but other sports entertainment complexes. How can we set up a reasonable license that the liquor commission is going to be asked to enforce. One of the things that they pointed out at the hearing, is that they're the entity charged with responsibility as enforcing other licenses in the state. It is their intent to do that at UNH and any other facilities that are going to have this kind of liquor license. But they should have flexibility to do that in a way that allows them to TAPE INAUDIBLE. They have agreed to a compromised amendment and UNH supported, TAPE INAUDIBLE one of the sponsors of the bill. I think that to go to the measure that Tom has suggested that we go to, to prohibit any serving of alcohol at any inter-collegiate event, anywhere in the state, denies our ability to really accomplish what we intended to do in setting up this category of licenses. So I would urge you to support the amended version of the bill that is in the Senate Journal. Support the compromised amendment that Senator Barnes is going to bring forward, and to oppose Senator Colantuono's floor amendment.

SENATOR DANAIS: I am going to quote one of my colleagues in this room, that I respect very much in saying that I am going to vote for this amendment of Senator Barnes, but I don't like it. I am going to vote for it only because I don't want to jeopardize the final outcome of this bill, from UNH's point of view, but I don't like it at all. I don't think that the legislature has any business micromanaging the liquor commission as well as the trustees of the UNH or any other body that has the responsibilities of running a campus. This bill is a much more universal bill than the discussions here. Everybody seems to be concerned with UNH, and rightfully so; I don't disagree with the comments, but this is a bill for licensing for sports entertainment complexes. It has nothing in the bill that says anything about campuses, colleges, state run universities or anything to that manner. This is a bill to create a new license because of the growth of the state of New Hampshire is encountering. In Manchester there is the CenterPlex. If that is built they will need the ability to have the sale of alcohol like any other liquor licensee in the state of New Hampshire. If QuadraPlex is built in Raymond, New Hampshire, they are going to need the ability to sell liquor licenses. I mean we are interfering with free enterprise and this is an overall bill. If everyone is concerned with UNH that is fine. I don't think that we should be micro managing it, but I have to act to the wishes of this body, but I just wanted to be put on record that I don't agree with it, and I don't think that it is necessary.

SENATOR BARNES: Senator Danais, I don't think that we have to be concerned about the CenterPlex in Manchester or the QuadraPlex in Raymond at this time, with this piece of legislation that we have here, it has to be separated out of there. The earliest that either one of those facilities will be open is five years from today, the earliest, and there is going to be other legislators after us that can take care of those situations when they arise. Would you believe?

SENATOR DANAIS: Yes, thank you.

SENATOR LOVEJOY: Senator Shaheen, suppose TAPE INAUDIBLE?

SENATOR SHAHEEN: Well certainly liability is for the courts to determine, but that has not been raised in this issue relative to either the original bill. I guess that I would say that there are functions now that both the university and there are even state related functions where alcohol is served, and yet when it is served within the appropriate manner allowed by law, it is acceptable. I think that is what we are asking for in this bill. We are not suggesting that it be, first of all, we are limiting it to the location where it could be served or sold. We are also saying that it has got to be sold or served in compliance with all of the other liquor laws in the state, which means that they have to be over 21, and that there are limits on the amount of consumption. All of the other liquor laws are still going to be enforced. They would be enforced if we passed this bill as amended.

SENATOR LOVEJOY: TAPE INAUDIBLE.

SENATOR SHAHEEN: I can tell you, Senator Lovejoy, that my husband's an attorney and his motto is "sue everyone" in a case. So I assume that anybody involved in a situation is potentially, liable in any kind of situation.

SENATOR F. KING: Senator Danaïs, the subject of CenterPlex has come up in the discussion today, would you agree that this issue of whether or not the liquor licenses will be available for a facility such as that needs to be decided before the ultimate decision to build that facility is made?

SENATOR DANAÏS: Yes it does. It is a very serious concern of mine, because in our planning for the Centerplex, as well as other private public private partnerships, there is a cliché that is used which is called pouring rights. Now pouring rights could be Coke, Pepsi, or it could be alcoholic beverages and beer. We are going to solicit contributions and endorsements from these providers in order to raise the necessary capital to build such a complex in Manchester. We are talking millions of dollars in solicitations of monies. If for some reason, the sale of alcoholic beverages is prohibited, we are jeopardizing the ability to go out to the marketplace and raise millions of dollars through these pouring rights. It is not an uncommon practice; as a matter of fact, the raising of monies through pouring rights, is a standard practice in most arenas. They give the vendor the exclusive right to sell that product in the entire complex. It might not be completed in five years, if it is approved, but we have to go through the planning stages, and this bill is going to severely compromise our ability to go out into the marketplace.

SENATOR F. KING: Thank you.

Senator Blaisdell moved the question.

Adopted.

Question is on the committee amendment.

A division vote was requested.

Yeas: 20 - Nays: 0

Amendment adopted.

Senator Colantuono offered a floor amendment.

5053L

Floor Amendment to SB 665-FN

Amend RSA 178:20, V(u)(1) as inserted by section 2 of the bill by replacing it with the following:

(1) The commission may issue a cocktail lounge license to the owner of a sports/entertainment complex, or any operator or designee contracting with the owner of the complex. Such license shall allow the sale or service of liquor or beverages in any clearly defined areas approved by the commission. Liquor or beverage shall be sold only at such times as a fee is charged for admission to an event at the sports/entertainment complex. Liquor or beverage shall not be sold at any interscholastic or intercollegiate event. The provisions of RSA 178:20, II shall not apply to this license.

SENATOR COLANTUONO: While it is being passed out, I want to thank Senator Shaheen for pointing out the correct statutory parliamentary procedure to adopt the committee amendment before acting on the floor amendment. This amendment is the one that I spoke about in my remarks. It simply adds the word 'intercollegiate'. The prohibition is already in the committee amendment that we just adopted. If you adopt this you will be saying that at any intercollegiate event, either at the Whittemore Center or at any other stadium or arena that may be built in this state, unless the law is changed, there won't be any liquor sales,

so that we can assure that the crowds that will go there that they will have a positive family experience and atmosphere. So with that, I will offer the floor amendment.

Question is on the floor amendment.

A division vote was requested.

Yeas: 10 - Nays: 13

Floor amendment failed.

Senator Wheeler in favor of floor amendment #5053 to SB 665-FN.

Senator Barnes offered a floor amendment.

5070L

Floor Amendment to SB 665-FN

Amend RSA 178:20, V(u)(1) as inserted by section 2 of the bill by replacing it with the following:

(1) The commission may issue a cocktail lounge license to the owner of a sports/entertainment complex, or any operator or designee contracting with the owner of the complex. Such license shall allow the sale or service of liquor or beverages in any clearly defined areas approved by the commission. Liquor or beverage shall be sold only at such times as a fee is charged for admission to an event at the sports/entertainment complex. Liquor or beverage shall not be sold or consumed in stadium seating during any intercollegiate athletic event. Liquor or beverage shall not be sold at any interscholastic event. The provisions of RSA 178:20, II shall not apply to this license.

SENATOR BARNES: I have an amendment that is being passed out now that I would like to introduce. We are all looking at 5070L. What this amendment does is that it allows the sale of service of liquor or beverages at any clearly defined areas approved by the commission. The idea of this is that it will be allowed to be served in the luxury boxes at the arena at UNH as well as the function room. That is what it does.

Floor amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Colantuono moved to have **SB 594**, an act prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency, taken off the table.

Adopted.

SB 594, an act prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency.

SENATOR RUBENS: The bill as recommended by the Public Affairs Committee, really does one simple thing, it prohibits any local governmental unit, including a town, city or school district, to consider capital appropriations at special town meetings except in the case of an emergency.

SENATOR F. KING: Senator Rubens, is there someplace here where the question of emergency is defined? Who determines whether it is an emergency or not?

SENATOR RUBENS: Well we are using the existing statutory definition of emergency. We do have a separate bill in Public Affairs where we are attempting to clarify the definition of emergency and that bill will be with us maybe tomorrow.

SENATOR PIGNATELLI: Senator Rubens, why are we, as a state, deciding whether the towns can vote on capital appropriations at their meeting? Why aren't we letting each town and city decide whether they want to vote on these issues?

SENATOR RUBENS: The Public Affairs Committee heard testimony that the emergency meetings are being used abusively in a number of instances, causing voters to have to meet repeatedly during the year despite the fact that TAPE INAUDIBLE. It also turns out that the emergency meeting or special meetings have a lower turnout TAPE INAUDIBLE. It has been said that emergency meetings have also been used in the schools to get something passed that might have not been TAPE INAUDIBLE.

SENATOR PIGNATELLI: Senator Rubens, who calls a special meeting? Do the elected officials call a special meeting to vote on budget items?

SENATOR RUBENS: Presently, the governing body is able to call a special meeting if the criteria is an emergency meeting.

SENATOR PIGNATELLI: If people are having to show up for a meeting, time and time again, and they object to that, isn't there recourse to vote out the officials who keep calling these meetings?

SENATOR RUBENS: Yes. It hasn't stopped the problem though. That recourse hasn't curbed the problem.

SENATOR PIGNATELLI: Thank you.

SENATOR BLAISDELL: Senator Rubens, can you tell me where the abuses have taken place? What towns, what city, what district?

SENATOR RUBENS: I don't remember specifically. The primary instance was a school district that we were worried about where there was a specific bond issue that was brought forth. Does anyone in the committee remember where that was? It was brought forth multiple times, sixteen times during a two year period, the same bond issue.

SENATOR BLAISDELL: The same bond issue in that district?

SENATOR RUBENS: Yes.

SENATOR BLAISDELL: Did that Senator bring in this bill to prohibit this in his own district, because I have an objection to him bringing in a bill that is going to be affecting my district, district 10, that has had no problems in all of the towns that I represent, and the city of Keene. So why is that one district telling me what to do in my district? I object to that. I think that if he or she wants to put in a bill to prohibit in his or her district, that they should put their name on it and pass it in their area and leave my area alone.

SENATOR DANAIS: Senator Rubens, if I supported SB 4 which is the official ballot bill, which has to do with similar things at town meetings, would I also support this bill or would this have a conflict with the ultimate results of SB 4?

SENATOR RUBENS: SB 2?

SENATOR DANAIS: Yes, excuse me.

SENATOR RUBENS: If this was adopted, would there be a conflict?

SENATOR DANAIS: Yes.

SENATOR RUBENS: Not to my knowledge.

SENATOR DANAIS: Would it compliment SB 2?

SENATOR RUBENS: I am not certain that they deal with the same meetings. I think that they would both tend to enhance the degree to which the meetings reflect the will or consensus of the whole people in those districts.

SENATOR DANAIS: If SB 2 is passed, would that relieve the problems that the district in question had?

SENATOR RUBENS: No.

SENATOR DANAIS: It would not.

SENATOR SHAHEEN: Senator Rubens, earlier you said something about whatever the issue was, it would not address the problem. I guess my question is what is the problem, because I haven't heard of any in our district that there is any major problems that needs to be addressed. What is the problem that we are trying to fix?

SENATOR RUBENS: The problem is that in some districts, some of the local governmental units, the questions that are being rejected by voters are being brought back repetitively and frequently, in an abusive and obnoxious manner that frustrates the voters. The capital expenditures is a major question that should rightfully be considered at an annual meeting, except under the conditions of whether it is an emergency.

Recess.

Out of recess.

SENATOR RUBENS: We are debating the committee amendment so retract everything that I just said because we are not even debating the version of the bill that was handed out on SB 594. We are talking about the committee amendment on page 110 in the Senate Journal which defines emergency. I was probing my mind as to where we had done that and it happened in the committee amendment. We defined emergency as situations in which the service to a community would cease. Secondly, the bill prohibits reconsideration of a matter brought before an emergency meeting, until the next regular meeting of both the town or school district. The purpose of doing this is that the word emergency now, is not defined under law and often requests for special meetings are brought by governing bodies to Superior Court, and because the word emergency is not defined, the courts have tended to be rather liberal in granting options to have special meetings. This has resulted in the Shaker Regional School District where the same question has been brought six or eight times every fall in a two-year period, back before the voters. Because in the absence of a clear definition of the word emergency and the prohibition against the competitive attempts to use special meetings.

SENATOR STAWASZ: Senator Rubens, the way that this happens now, in an instance like Shaker Regional or Hollis Brookline Cooperative, is the warrant article that is brought forth by the elected school board . . . the body takes a legitimate vote in whatever way that they do, whether they do it there or under SB 2 in the future, it fails. The local elected authority then goes to the court and says that they have an emergency, we need a new school. Does the court bring in members of the community and try to find out if the community feels that there is an emergency or

if the community feels that they didn't get a fair shot at the meeting on voting on this or is this somewhat of a loophole for them to get a second bite at the apple without regard to the citizens opposed to the cost and the burden of additional meetings on the same thing that they just defeated?

SENATOR RUBENS: Without porporting that I can speak authorita-tively on every single instance, yes, that would be the case.

SENATOR FRASER: Senator Rubens, now that I have read the amended version in the Senate Journal, is it a fair statement to say, that I, as a resident of Pittsfield, along with nine other voters, can still petition for a special town meeting for capital appropriation, provided that, number one, it had been debated previously, and number two, it doesn't have to be an emergency, is that correct?

SENATOR RUBENS: I am not able to answer that.

SENATOR FRASER: If I understand . . .

SENATOR RUBENS: I will defer to Senator Colantuono.

SENATOR COLANTUONO: Special meetings under the law right now, that are not called pursuant to emergencies, can be held, and capital appropriations can be voted upon, and that is where the 50 percent would come into play under current law, which will be the subject of the floor amendment.

SENATOR SHAHEEN: I understand, as Senator Rubens pointed out, that there may be some individual districts where there has been a problem, but the question that I have is whether changing what seems to be working in most districts, is what we want to do to address this problem. The fact is, if there is unhappiness with the way that a school board is running a school district or if there is unhappiness with the fact that your neighbors may be supporting an issue, it seems to me, that the place to deal with that is at the local level. Just because somebody doesn't like the outcome of an election, doesn't mean that we should change the way that the rules are written at the state level. I can tell you that I went last night to the school district meeting at the Oyster River district, in the middle of a snow storm, after getting home from being in Concord, right as the meeting was starting and going down to the meeting, only to have somebody propose that the meeting be held two weeks from last night because of the snow. Now I didn't like the outcome of that meeting. I was there and I wanted to go ahead and stay there. I can bet that the other thousand people who were there, at least half of us felt the same way. But we went along with the motion to postpone it, because there were people because of the snow that weren't able to get there. It seems to me that that is the way that these decisions ought to be made. They ought to be made at the local level. These are issues of concern to local voters and they're the people who ought to be making those decisions, not those of us in Concord who may not know the particulars of any given issue.

SENATOR J. KING: I rise in opposition to this amendment and any other amendment that comes along with it. We have always heard, and I go back to the TAPE INAUDIBLE let's make everything as local as we can get it. Well if you go and look at some of the bills that we have been doing in the last three or four or six months, we have been taking more

power away from the local government than ever before. There used to be a man at one time that used to tell us, "here we go again" and here we go again, we are going to nip away at it . . . tell those towns what to do. You got a group that doesn't like what the decision was that was made and they are going to come in here and change the law so that you won't be able to make that decision until it gets to the point where that side that changed before doesn't like what is happening, so they are going to back in and have you change it again. Let's leave the locals run their own government. In fact, let's not replace them with the state. Let's give them all of the power that they need and more power to them, not take it away from them.

SENATOR RUBENS: The problem is that the statutory definition of the word emergency is a TAPE INAUDIBLE word and the problem with that definition can't be dealt with TAPE INAUDIBLE right now by the courts. There is no definition correcting the flaw in the statute. This is not something that can be corrected or appropriately dealt with at the local level.

SENATOR LOVEJOY: I rise in strong support of this bill, it is necessary. It is a necessary bill, Senator King, for local control. Because local control doesn't exist in this situation. It is court control for a bond issue, under today's laws, it would take a two-thirds vote. They haven't been able to produce a two-thirds vote in two years, so they have called emergency meetings. Who decides whether it is an emergency, not the people? The people have already spoken. They weren't able to produce the vote that they needed. The people spoke. This is what you are asking for. But the court says no, we are not going to live with that. You can have another meeting, and they have done it nine times. That is not local control, Senator King, that is court control. So to remedy that, what we have said in this bill, is listed to who determines what is an emergency. Because if there is true emergency, we agree, that there should be a meeting. A service should be provided. So the definition of emergency says, "that if a function would cease," "if a service would no longer be provided," then that is an emergency. Then the people tell the court when the emergency exists, and that, sir, is local control. That is the way that it should be. As it stands now, the people that voted to defeat the issue, and they do it nine times, and the opposition comes to the court and says, we are not satisfied with that vote, we want another vote, we want another dip at the well, and then the courts say go ahead and dip. They have done it nine times. Well it is time to stop. It is time to give control to the people and to recognizing that the people voted and to abide by it until the next standard meeting. Thank you.

SENATOR GORDON: Senator Lovejoy, I am certainly in support of the intent, and I certainly do think that the word emergency has to be redefined. It doesn't work today. My problem is this definition that I just asked you about. My question to you, Senator Lovejoy, is how do you define a service to the community?

SENATOR LOVEJOY: The way that we had defined it in our committee in our deliberations, was if there was a police cruiser and it is wrecked, and there is no cruiser in the town, so we have an emergency there. If a fire truck is lost, you have an emergency, if you lost a school, you have an emergency. If functions cease and the town hall burns, you have an emergency. But there certainly is an emergency, if the necessary vote, Senator, that is require to bond a new school isn't produced after they have gone over and over again, there is no emergency in the minds of the people even though there may be in the minds of the courts.

SENATOR GORDON: As you defined emergency in terms of these other services, the way that you are defining emergency is that you are completely unable to provide a service. Does that mean that emergency in this case, means that you would be completely unable to provide education for the schools before you have an emergency?

SENATOR LOVEJOY: Absolutely not, no. In some cases, you would have for instance, temporary classrooms. The court may feel that that is an emergency, but the people may feel that that is not an emergency. In that case, you should wait until the next annual vote, because if not, the school is still being held. You are still having your classes and classrooms. The school is still functioning. If the school burned down, then you would have an emergency. You would have to have a meeting. We are not looking, Senator Gordon, for degrees of emergencies. That is where you get in trouble.

SENATOR GORDON: I think that is what I am trying to understand, Senator Lovejoy, is the degree of emergency. I think that what you just said is that the only way that you really have an emergency, is if you can not provide school to the children.

SENATOR LOVEJOY: That is correct. If the function ceases to exist.

SENATOR LARSEN: I think Senator Gordon has hit the nail on the head in the problem with this amendment. This amendment . . . I had trouble with this bill because we didn't have an adequate definition of what an emergency was. The amendment came back saying that an emergency was a situation in which a service to the community would cease. I had pointed out the instance of a fire truck. You can have two fire trucks in a town now. Your fire service does not cease if you lose one of those; however, under this definition, a strict reading by a judge would say that we still have fire service, it is limping along, but we have it. I believe that this definition is inadequate to cover the various situations which local control must deal with. We always talk about local control. This is your chance to vote on local control. An emergency ought to be decided locally, because there are too many options for emergencies to be interpreted in different ways. I offer to you that this definition of emergency ties the hands of local elected officials. It is not adequate to cover the problem. I admit that there is a problem in certain districts. This does not solve it. It only hurts your towns when they need to function in an emergency.

Senator Russman moved the question.

Adopted.

Question is on the committee amendment.

A roll call was requested by Senator Lovejoy.

Seconded by Senator Wheeler.

The following Senators voted Yes: F. King, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Barnes, Russman, Delahunty, Keough.

The following Senators voted No: Gordon, Blaisdell, Pignatelli, Larsen, J. King, Danaïs, Shaheen, Cohen.

Yeas: 16 - Nays: 8

Amendment adopted.

Senator Colantuono offered a floor amendment.

5232L

Floor Amendment to SB 594

Amend the title of the bill by replacing it with the following:

AN ACT

prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency and relative to the polling place and to special meetings under the official ballot option.

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 8:

4 Voting at Local Polling Place. Amend RSA 40:13, VII to read as follows:

VII. The second session of the annual meeting, to elect officers of the local political subdivision by official ballot, to vote on questions required by law to be inserted on said official ballot, and to vote on all warrant articles from the first session on official ballot, shall be held on the second Tuesday in April ***at the local polling place. In a multi-town local political subdivision, voting shall be at the local polling place in each town in the subdivision.*** Notwithstanding RSA 669:1, 670:1, or 671:2, the second session shall be deemed the annual election date for purposes of all applicable election statutes including, but not limited to, RSA 669:5, 669:19, 669:30, 670:3, 670:4, 670:11, 671:15, 671:19, and 671:30-32; and votes on zoning ordinances, historic district ordinances, and building codes under RSA 675.

5 Special Meetings; Revised Operating Budget; Technical Correction. Amend RSA 40:13, X and XI to read as follows:

X. If no operating budget article is adopted, the local political subdivision either shall be deemed to have approved the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, or the governing body may hold a special meeting pursuant to paragraph XVI, notwithstanding any requirement for court petition, to take up the issue of a revised operating budget only; ***provided that RSA 31:5 and 197:3 shall not apply to such a special meeting.*** If no operating budget article is adopted the estimated revenues shall nevertheless be deemed to have been approved.

XI. The wording of the article on the operating budget shall be as follows:

"Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles, the amounts set forth on the budget posted with the warrant, for the purposes set forth therein, totaling \$.....? Should this article be defeated, the operating budget shall be \$....., which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law, or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."

6 Special Meeting; Limitations. Amend RSA 40:13, XVI to read as follows:

XVI. The warrant for any special meeting shall prescribe the date, place and hour for both a first and second session. The second session shall be warned for a date not fewer than 28 days nor more than 60 days following the first session. The first and second sessions shall conform to the provisions of this subdivision pertaining to the first and second

sessions of annual meetings. Special meetings shall be subject to RSA 31:5, 39:3, 195:13, 197:2, and 197:3, provided that no more than one special meeting may be held to raise and appropriate money in any one calendar year or fiscal year, whichever applies. Any special meeting held pursuant to paragraphs X and XI] **and further provided that any special meeting held pursuant to paragraph X and XI shall not be subject to RSA 31:5 and 197:3 and** shall not be counted toward the number of special meetings which may be held in a given calendar or fiscal year.

7 Voting at Local Polling Place. Amend RSA 40:14, III to read as follows:

III. The local political subdivision shall place the question on the warrant of the annual meeting under the procedures set out in RSA 39:3 or RSA 197:6, and the question shall be voted on by official ballot **at the local polling place** in accordance with the procedures established in RSA 669:19-29, RSA 670:5-7, and RSA 671:20-30, including all requirements pertaining to absentee voting, polling places, and polling hours. **In a multi-town local political subdivision, voting shall be at the local polling place in each town in the subdivision.**

AMENDED ANALYSIS

This bill:

I. Prohibits capital appropriations from being voted on at special town or district meetings, except in the case of an emergency.

II. Exempts special meetings held pursuant to the official ballot option concerning the adoption of an operating budget from certain requirements.

III. Provides that under the official ballot option, in multi-town districts, voting shall take place at the local polling place in each town in the district.

SENATOR COLANTUONO: This floor amendment is relative to house keeping. It changes the official ballot bill that we had last year. TAPE INAUDIBLE discussion about SB 2 going on in some of the towns and districts right now, a couple of items were pointed out that might need some clarification and this amendment attempts to give that clarification to the original law. The first item that is addressed, is the question of where voting takes place in a multi-town district. For example, a regional school district. The original law didn't say that the voting had to take place in one single polling area, but some people out there are trying to say that that is what it means. Obviously, that is not what it means. The first part of this amendment makes it clear that you vote under SB 2 or the official ballot bill, the same places that you vote now, in your local town halls or schools or wherever you vote. The second part of the amendment clarifies that when the governing body decides to ask for a special meeting, if their original budget failed at the ballot vote, that special meeting is not governed by the so-called 50 percent rule. The original bill left it unclear whether it was or was not governed by the 50 percent rule. The 50 percent rule, as we just discussed, requires that in a special meeting, not governed by the emergency language, you need 50 percent of your registered voters to show up and vote on an item before you can appropriate money. It was never our intent, as the sponsors of the official ballot bill last year, to require the special meeting to deal with the budget, to be subject to that 50 percent rule. This amendment makes it clear. So all of our voters who are going to vote next Tuesday on their local versions or adoptions of this will know that was our intent. Thank you.

Floor amendment adopted.

Ordered to third reading.

RECONSIDERATION

Senator Colantuono moved that having voted with the prevailing side, moved reconsideration of **SB 504**, an act relative to the legal killing of certain dogs, whereby we ordered it to third reading.

SENATOR COLANTUONO: This bill came out of Public Affairs committee and it was passed rather routinely without any discussion. I took a look at it after we passed it, you know how things fly by here. I had to read it two or three times to make sure that it really said what I thought that it said on the first reading, because I was shocked about what we are doing here. The current law that we have right now, says that you may kill a dog that suddenly assaults you, if you are peaceably walking or riding, outside the enclosure of its owner or keeper. You can also kill a dog if you find him worrying, wounding or killing your domestic animals. That is a perfectly sensible law. What this law says, is that it gives more protection to your animals than it gives to you as a human being. It says that if your dog is barking, which is another term for worrying, barking at your chickens, you can kill it, but if it attacks you, while it is on a leash or in its owner's yard or in its owner's penned-in enclosure, you can't protect yourself, you can't kill it. That is absurd. I can't believe that anyone supports this. We just had news the other day about a baby that was mauled in a neighbor's yard or in a neighbor's house. Under this bill, no one could have protected that child by killing the dog. So I originally thought that maybe an amendment would be in order, but after reading the current language that we have now, and the law that we have had since 1891 and it was just amended with a short amendment in 1991. We have had it for over 100 years and it is a perfectly good law and it makes a lot of sense. This amendment here is traverse. I would urge you to vote yes on reconsideration and that when the bill comes back on the floor, vote no against the adoption.

SENATOR RODESCHIN: Senator Colantuono, today when domestic dogs are in a group and are attacking deer, especially in snow season, you are allowed to shoot a dog, what would then happen to that?

SENATOR COLANTUONO: Well the irony is that you would still be allowed to kill a dog attacking a deer. You wouldn't be allowed to kill a deer if it turned around and attacked you, unless you were on your own property.

SENATOR RODESCHIN: I don't see that language in here. This is wild-life.

SENATOR COLANTUONO: I am sorry, this is domestic. The law has always been domestic animals. This law only applies to domestic animals.

SENATOR RODESCHIN: Today's law allows you if there is a pack of dogs chasing a deer and do quite a bit of damage and they end up killing off . . . or our Fish and Game law enforcement officers have to kill the deer. In this, you would not be allowed to kill that pack of dogs that is chasing the deer?

SENATOR COLANTUONO: I don't think that that is addressed in this bill or the current law. That may be in the Fish and Game Laws. It is not in this one.

SENATOR COHEN: In answer to Senator Rodeschin's question, that remains unaffected. Dogs are not allowed to run after deer, they can definitely be shot. The question of Senator Colantuono, his concern, it really surprises me. If an individual is on the property of someone else,

and that someone else has a dog, but you are on that persons property, they have a responsibility to control that dog. There are many other ways besides shooting the dog, that a dog can be controlled, especially if it is on the property of its owner. There are so many other ways. I think that he is talking about an absurd situation. There are other ways of dealing with it, other than just taking out a gun and shooting the dog. This bill was worked on quite a bit on many different interests. The farm interest, the animal protection interest. It was worked on very hard to come together to have a bill that would improve a situation right now. Right now the law that is on the books allows for basically, indiscriminate killing of dogs. This is a bill to try to correct that. In the situation that Senator Colantuono described, there are many other far better ways than to pull out a gun and shooting a dog if you are on the property of the person who owns the dog. It is really not a problem. It is not necessary to do that. I would urge a vote against reconsideration.

Adopted.

SB 504, an act relative to the legal killing of certain dogs.

Question is on ordering to third reading.

Motion failed.

Senator Colantuono moved inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourned until Thursday, March 7, 1996 at 10:00 a.m.

Adopted.

ANNOUNCEMENTS

LATE SESSION

Third Reading and Final Passage

SB 507, an act relative to the New Hampshire real estate practice act.

SB 511, regulating business practices among motor vehicle manufacturers, distributors, and dealers.

SB 514, an act relative to the definition of personal watercraft and authorizing certain residents to petition the commissioner of safety to allow the use of personal watercraft on previously restricted water bodies.

SB 517-L, relative to a property tax exemption for real estate used as rental housing by certain nonprofit charitable organizations and relative to assessments against owners of property in central business districts.

SB 521-L, establishing a civic center commission to operate a civic and trade center in the city of Concord.

SB 524, relative to filing of reports or inventories with the probate court by guardians, fiduciaries, and executors; adopting the uniform disclaimer of property interests act; and relative to jurisdiction of family division courts.

SB 525, an act relative to declaratory judgments.

SB 533, prohibiting the recovery of certain costs associated with special utility contracts.

SB 548-FN, relative to accidental death benefits for group I and group II members in the New Hampshire retirement system.

SB 560, an act relative to utilization review programs.

SB 568-FN, an act requiring the house and senate calendars to be made available on the largest nonprofit public computer network (Internet).

SB 576-L, an act permitting telecommunications public utilities to provide services at rates lower than those fixed by its schedules of general application to public and private schools grades kindergarten through 12.

SB 577, establishing a committee to study the issue of implementing individual withdrawal selection for abortion coverage by an individual in a group policy, including premium implications and administrative costs.

SB 587, authorizing municipal and county agreements to purchase electricity and energy services.

SB 594, prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency and relative to the polling place and to special meetings under the official ballot option.

SB 601-FN, an act revising the air toxic control act.

SB 606, an act relative to certification qualifications for marital mediators and prohibiting board involvement in training of marital mediators.

SB 611, an act relative to the duties of real estate licensees.

SB 614, an act authorizing licensing of alcohol and drug counselors.

SB 632, an act requiring municipal water companies to provide notice and opportunity to certain tenants prior to termination of service.

SB 640, relative to acquisitions and mergers involving national banks and relative to trust activities conducted in New Hampshire by out-of-state banks and conducted out-of-state by New Hampshire banks.

SB 653, an act establishing the parent and pupil rights law.

SB 664, an act relative to remedies against licensing authorities for failure to comply with state laws regarding licenses to carry pistols and revolvers.

SB 665-FN, an act relative to liquor licenses for a sports/entertainment complex.

SB 667, an act naming the new Coos county courthouse the John D. Morton, Sr. courthouse.

HB 475-L, an act enabling municipalities to create regional transit districts.

Senator J. King moved that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Thursday, March 7, 1996 at 10:00 a.m.

Adopted.

Adjournment.

March 7, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Ned Soltz, the Senate Guest Chaplain.

TAPE INAUDIBLE.

Senator Wheeler led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

The House of Representatives has passed a Bill with the following title, in the passage of which it asks the concurrence of the Senate:

HB 1636, declaring the Milford school district meeting to be held March 9, 1996 to be legally noticed.

SUSPENSION OF THE RULES

Senator Wheeler moved that the Rules of the Senate be suspended to dispense the referring to a committee, the holding of a hearing, the notice of a committee report in the calendar, and that the bill be put on First and Second Reading at the present time.

SENATOR WHEELER: We inadvertently missed one of the posting places for the Milford school district meeting and we need the legislation to legalize our meeting for Saturday and we are asking for your support on this matter.

Adopted by the necessary 2/3 vote.

First and Second Reading

HB 1636, declaring the Milford school district meeting to be held March 9, 1996 to be legally noticed.

SUSPENSION OF THE RULES

Senator Wheeler moved that the rules be suspended to put **HB 1636** on Third Reading and Final Passage at the present time.

HB 1636, declaring the Milford school district meeting to be held March 9, 1996 to be legally noticed.

Adopted by the necessary 2/3 vote.

Third Reading and Final Passage

HB 1636, declaring the Milford school district meeting to be held March 9, 1996 to be legally noticed.

MOTION TO RECOMMIT

Senator Currier moved to recommit **SB 651**, providing for horse racing purse parity, from the Finance Committee to the Ways and Means Committee.

Adopted.

MOTION TO VACATE

Senator Rubens moved to vacate **HB 1142**, an act relative to disclosure language contained in agreements to locate abandoned property, from the Public Affairs Committee to the Executive Departments and Administration Committee.

Adopted.

COMMITTEE REPORTS

SB 532, an act relative to the notification and recording requirements for groundwater management permits. Environment Committee. Vote: 6-0. Ought to pass with amendment. Senator Russman for the committee.

5238L

Amendment to SB 532

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the creation and recordation
of groundwater management zones.

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose Amended. Amend RSA 485-C:1, I to read as follows:

I. The purpose of this chapter is to protect the natural quality of the groundwater resource of the state by assisting local groundwater protection efforts and by establishing procedures and standards for the classification **and remediation** of groundwater. The legislature recognizes the fundamental importance of the groundwater resource and the role of local planning and management in groundwater protection, and intends through this legislation to provide a framework for local groundwater protection. ***The legislature also intends to provide for consistent, protective management and remediation of groundwater affected by regulated contaminants.*** The natural quality of the groundwater resource shall be preserved and protected in order that groundwater may be used for drinking water supply. Ambient groundwater quality standards shall meet drinking water standards, and the classification of groundwater shall provide opportunity for protecting groundwater of high value as a drinking water supply. The legislature recognizes that groundwater constitutes an integral part of the hydrologic cycle and that the protection of groundwater quality is necessary to preserve the integrity of surface water.

2 New Paragraph; Duties. Amend RSA 485-C:3 by inserting after paragraph IV the following new paragraph:

V. Provide for the investigation, management, and remediation of contaminated groundwater.

3 New Paragraphs; Rulemaking. Amend RSA 485-C:4 by inserting after paragraph VII the following new paragraphs:

VIII. Criteria and procedures for the investigation, management, and remediation of contaminated groundwater, including the creation of regulated zones of contaminated groundwater and the issuance of permits or other controls for such zones.

IX. Criteria and procedures for the recordation of permits governing groundwater management zones designated by the division in the registry of deeds for affected properties.

X. Criteria and procedures for the imposition of groundwater use restrictions relative to groundwater management zones.

XI. Criteria and procedures for approving municipal land use controls, including but not limited to environmental characteristics zoning enacted pursuant to RSA 674:21, as a substitute for some or all of the groundwater management provisions of this chapter, including recordation requirements.

4 New Sections; Groundwater Management Zones. Amend RSA 485-C by inserting after section 6 the following new sections:

485-C:6-a Groundwater Management Zones. The division may designate groundwater management zones as a component of the remediation of contaminated groundwater. The division shall issue permits or other similar controls for such zones that establish a time period and process for the remediation of the groundwater.

485-C:6-b Recordation of Groundwater Management Zone Permits. The division shall require a person to whom a groundwater management zone permit is issued to record notice of the existence of the groundwater management zone in a form approved by the division. Such notice shall be recorded in the registry of deeds in the chain of title for each property included in whole or part within the groundwater management zone. If the division approves the use of municipal land use controls as an alternative form of notice, such recordation shall not be required.

5 Civil Penalty; Enjoining by Superior Court. Amend RSA 485-C:19, II to read as follows:

II. Any person who violates this chapter or a rule, permit, or order adopted or issued under this chapter, shall be subject to a civil penalty not to exceed \$10,000 for each violation or for each day of a continuing violation. ***Such violation may also be enjoined by the superior court upon application of the attorney general.***

6 New Paragraph; Strict Liability; Oil Spillage. Amend RSA 146-A:3-a by inserting after paragraph III the following new paragraph:

IV. There shall be no implied cause of action for third party damages against any person under this section to the extent that the person's liability under this section is based solely on the person's ownership of a facility.

7 New Paragraph; Strict Liability; Underground Storage Facilities. Amend RSA 146-C:11 by inserting after paragraph V the following new paragraph:

VI. There shall be no implied cause of action for third party damages against any person under this section to the extent that the person's liability under this section is based solely on the person's ownership of a facility.

8 New Paragraph; Liability; Hazardous Waste Management. Amend RSA 147-A:9 by inserting after paragraph II the following new paragraph:

III. There shall be no implied cause of action for third party damages against any person under this section to the extent that the person's liability under this section is based solely on the person's ownership of a facility.

9 New Paragraph; Strict Liability; Hazardous Waste Cleanup. Amend RSA 147-B:10 by inserting after paragraph VI the following new paragraph:

VII. There shall be no implied cause of action for third party damages against any person under this section to the extent that the person's liability under this section is based solely on the person's ownership of a facility.

10 New Paragraph; Liability of Landowner; Hazardous Waste Cleanup. Amend RSA 147-B:10-a by inserting after paragraph II the following new paragraph:

III. Notwithstanding any other provision of law, an owner or former owner of property shall not be held strictly liable for the treatment or cleanup of hazardous waste, hazardous material, oil as defined in RSA 146-A:2, III, or hazardous substance as defined in RSA 146-C:1, VII-a that are discovered on the property if:

(a) The owner did not, in any way, cause or materially contribute to the contamination of the property; and

(b) The contamination migrated onto the property from a source that, at the time of discovery of the contamination, was located on another property.

11 Application. The provisions of sections 6 through 9 of this act shall not affect any cause of action initiated prior to the effective date of such sections.

12 Effective Date.

I. Sections 6-9 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill creates groundwater management zones and clarifies the department of environmental services' authority to regulate contaminated groundwater. This bill also eliminates various strict liability implied causes of action for third party damages based solely on property ownership.

SENATOR RUSSMAN: SB 532 is designed to provide awareness to protect innocent parties with regard to groundwater contamination cleanup. The bill has the full support of the DES, the Attorney General's Office and the Business Finance Authority as well as the BIA. The amendment creates groundwater management zones and clarifies the department's authority to regulate contaminated groundwater and eliminates certain liability issues for third party damages, based solely on property ownership. We urge your support of the bill.

Amendment adopted.

Ordered to third reading.

SB 558-FN, an act relative to future electric rate increases. Executive Departments and Administration Committee. Vote: 4-0. Inexpedient to legislate. Senator Rodeschin for the committee.

SENATOR RODESCHIN: SB 558 was designed to prohibit the Public Utilities Commission from approving electric rate increases during the final three years of the reorganization plan. The committee felt that the PUC had the necessary tools to deal with the rate increases and with the dynamic changes taking place in the industry, the bill was not needed. The committee urges you to support the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

SB 575, an act relative to reporting requirements for candidates for local offices. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Keough for the committee.

5231L

Amendment to SB 575

Amend the bill by replacing section 1 with the following:

1 New Section; Establishment of Authority to Require Candidates to File Lists of Receipts and Expenditures of Money in Local Elections. Amend RSA 669 by inserting after section 21 the following new section:

669:21-a Candidates in Local Elections; Authority to Require Statement of Receipts and Expenditures. A town or district may vote to adopt a requirement that a candidate in a local election file with the town or

district clerk a report of all receipts and expenditures made in support of such candidate in the election. The requirement to be voted upon may:

I. Include threshold sums for receipts and expenditures that shall be reported.

II. Include names and addresses of contributors and recipients, amounts of contributions and expenditures, and the dates of such receipts or expenditures.

III. Establish dates by which such reports shall be filed.

AMENDED ANALYSIS

This bill gives towns or districts the authority to vote to adopt a requirement that a candidate in a local election file with the town or district clerk a report of all receipts and expenditures made in support of such candidate in the election. It allows towns or districts to vote to require that certain information be reported with information regarding receipts and expenditures and that reports be made within a set number of days.

SENATOR KEOUGH: SB 575 gives towns and districts the authority to vote to adopt requirements that candidates for local elections file with the town or district clerks, reports of all receipts and expenditures made in support of the candidates.

Amendment adopted.

Ordered to third reading.

SB 610, an act relative to municipal water, gas and electric utilities. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Keough for the committee.

5242L

Amendment to SB 610

Amend the bill by replacing sections 1 and 2 with the following:

1 Municipal Water or Gas Systems. RSA 38 is repealed and reenacted to read as follows:

CHAPTER 38

MUNICIPAL WATER OR GAS SYSTEMS

38:1 Definitions. In this chapter:

I. "Commission" means the public utilities commission, unless the context otherwise indicates.

II. "Utility" means any public utility engaged in the manufacture, distribution, or sale of water or gas in the state.

III. "Municipality" means any city, town, or village district within the state.

38:2 Acquisition of Plants. Any municipality may:

I. Take, purchase, lease, or otherwise acquire and maintain and operate in accordance with the provisions of this chapter, one or more suitable plants for:

(a) The manufacture and distribution of water or gas for municipal use and for the use of its inhabitants and others; and

(b) Such other purposes as may be permitted, authorized, or directed by the commission.

II. For these purposes, purchase and hold in fee simple or otherwise any real or personal estate and any rights therein, including water or gas rights.

III. Do all other things necessary for carrying into effect the purposes of this chapter.

IV. Excavate and dig conduits and ditches in any highway or other land, and lay pipes for the transmission and distribution of water or gas, in such places as may be deemed necessary and proper.

V. Change, enlarge, and extend the same from time to time when the municipality shall deem necessary, and maintain the same, having due regard for the safety and welfare of its citizens and security of the public travel.

38:3 By Cities. Any city may acquire or establish such a plant after 2/3 of the members of the city council shall have voted, subject to the veto power of the mayor as provided by law, that it is expedient to do so and after such action by the city council shall have been confirmed by a majority of the qualified voters at a regular election or at a special meeting duly warned in either case. Such confirming vote shall be had within one year from the date of the vote to acquire. If the vote is unfavorable, the question shall not be again submitted to the voters within 2 years thereafter.

38:4 By Towns or Village Districts. Any town or village district may acquire or establish such a plant after 2/3 of all the voters present and voting at an annual or special meeting, duly warned in either case, have voted by ballot with the use of the check-list that it is expedient to do so. If such vote is unfavorable, the question shall not be again submitted to the voters within 2 years thereafter.

38:5 Notice to Utility. Within 30 days after the confirming vote provided for in RSA 38:3 or the vote provided for in RSA 38:4, the mayor of the city, the selectmen of the town, or the commissioners of the district shall notify in writing any utility engaged, at the time of the vote, in distributing water or gas for sale in the municipality, of the vote, and ask the utility whether it elects to sell, in the manner hereinafter provided, that portion of its plant and property located within the municipality which is suitable for and used in connection with the business of the utility, and that portion, if any, lying without the municipality which the public interest may require the municipality to purchase.

38:6 Reply by Utility. The utility shall reply to such inquiry by delivering its answer in writing to the mayor of the city, the selectmen of the town, or the commissioners of the district within 60 days of the receipt of the inquiry. If the reply is in the negative, or if the reply is not made within the 60 days, the utility forfeits any right it may have had to require the purchase of its plant and property by the municipality. If the reply is in the affirmative, it shall submit the price and terms it is willing to accept for all of such plant and property, together with a detailed schedule of all the plant and property it proposes to sell to the municipality, with proper evidence of title. If any of the plant and property lies without the municipality, a separate schedule of such plant and property, with its proportionate share of the purchase price, shall likewise be filed. All of the such plant and property named in the schedules and used in connection therewith, shall at all reasonable times thereafter be open to the examination of the officers and agents of the municipality and others charged with the duty of determining the fair value of the property.

38:7 By Agreement. The mayor and council of a city, the selectmen of a town, or the commissioners of a village district, may negotiate and agree with the utility upon the price to be paid for such plant and property; provided, however, that such agreement shall not be binding upon any city until ratified by a vote of the city council or upon any town or village district until ratified by a majority of the voters of the town or village district in the manner otherwise provided in RSA 38:4. Such vote shall be had within 90 days of the date of the filing of the reply provided in RSA 38:6.

38:8 Valuation. If the municipality fails to ratify the agreement to purchase in the manner provided in RSA 38:7 or if the price cannot be agreed upon, or if it cannot be agreed as to how much, if any, of such plant and property lying without the municipality the public interest requires the municipality to purchase, or if the schedules of property proposed to be sold, submitted in accordance with RSA 38:6, are not satisfactory, either the municipality or the utility may petition the commission for a determination of these questions. The commission, after proper notice and hearing, shall decide the matters in dispute and shall also, when required to fix the price to be paid for the plant and property, determine the amount of damages, if any, caused by the severance of the plant and property proposed to be purchased from the other plant and property of the owner. From all of such determinations there shall be the right of appeal to the superior court, and upon such appeal the price determined by the commission may be considered as evidence on the question of the value of such plant and property. The expense to the commission for the investigation of the matters covered by the petition, including the amounts expended for experts, accountants, or other assistants, and salaries and expenses of all employees of the commission for the time actually devoted to the investigation, but not including any part of the salaries of the commissioners, shall be paid by the parties involved, in the manner fixed by the commission.

38:9 Construction or Condemnation. If the utility shall have replied in the negative or if it shall have failed to reply within the time prescribed in RSA 38:6, the municipality, in the event that it shall have passed the vote or votes required in RSA 38:3 and 38:4 and after the commission upon proper notice and hearing has determined that it is for the public interest so to do, may construct a municipal plant or may take such private plant and property by condemnation, paying therefor just compensation determined in the manner provided in RSA 38:8.

38:10 Ratification. Within 90 days of the final determination of the price to be paid for the plant and property, as well as the amount of the plant and property to be taken or acquired under the provisions of RSA 38:8 or 38:9, the municipality shall decide whether or not to take the plant and property at the price by a vote similar to the ratifying vote provided in RSA 38:7. In the event that such vote or the vote in RSA 38:7 is in the affirmative, the municipality may then vote, within 90 days thereof, to raise by taxation, and appropriate, or, as provided by RSA 33, to borrow such sums of money on the credit of the municipality as may from time to time be deemed necessary and expedient for the purpose of defraying the cost of purchasing or taking the plant, property, or facilities of the utility which the municipality may thus acquire. Such indebtedness shall not exceed at any one time 10 percent of the tax valuation of the municipality, or, in the event of a taking, such price and damages as are finally determined under the provisions hereof. If the money is so raised it shall immediately be paid to the utility, which shall thereupon execute a proper conveyance and surrender the plant and property to the municipality, which shall thereafter operate it as a public utility. If the ratifying vote provided for in this section shall be in the negative, no other action under this chapter shall be had during the ensuing period of 2 years.

38:11 Operation of Plant. A municipality, which has so acquired the plant, property, or facilities of a public utility in any other municipality, may operate in such other municipality as a public utility with the same rights and franchises which the owners of such outlying plant, as pur-

chased, would have had such purchase not been made. The operation by a municipality outside its own limits shall be subject to the jurisdiction of the commission as in the case of any other public utility. If the outlying municipality shall itself vote to establish a municipal plant all the provisions of this chapter shall be binding as to such purchase.

38:12 Taking Property. Any such municipality may enter upon and take by eminent domain any land or any interest in land or water right within its limits, or in the case of a village district within the limits of the town or towns within which it is situated, which may be necessary for the construction, extension, or maintenance of its plant, and shall pay all damages sustained thereby, or by any other thing done under the authority of this chapter.

38:13 Damages. If the municipality shall not agree with the owner of such property as to damages, either party may apply to the superior court in the county where the town or district is located, or if the municipality is a village district then to the board of selectmen of the town or towns within which the village district is situated, to have the same laid out and the damages determined and proceedings thereon shall be as upon a petition for the laying out of a highway.

38:14 Water Control. Any municipality which shall have received an order by the division of water supply and pollution control under the provisions of RSA 147, 485 or 485-A shall proceed forthwith, after a majority vote in favor of such action, by the governing body, to acquire whatever easements and lands as are necessary to comply with the order and may enter upon, for the purpose of survey leading to land description, any land within the municipality. In so proceeding, the selectmen of the town, commissioners of the district, or mayor and aldermen of a city shall institute any necessary land taking in accordance with the provisions of RSA 38:12 and 38:13, and anything contained in RSA 231 or in the statutes generally notwithstanding, the decision of the officials authorized by this section to institute proceedings shall not be vacated and any subsequent appeal or other action by the owner or owners shall be based solely on the amount of damages assessed, and the duly authorized agents of the municipality shall have full right of immediate entry for the purposes of detailed surveys, borings, or the conduct of any and all other actions necessary or desirable to aid the municipality in the implementation of the order of the division.

38:15 Supply Contracts. Any such municipality may contract with individuals, corporations, and other municipalities and the citizens of such municipalities for supplying them with water or gas for any of the purposes named or contemplated in this chapter and make such contracts, and establish such regulations and such reasonable tolls for the use thereof, as may from time to time be authorized by the commission.

38:16 Bylaws and Ordinances.

I. In municipalities with public water or gas systems the governing body, or the board of water or gas commissioners, if any, may adopt such ordinances and bylaws relating to the system or structures as required for proper maintenance and operation.

II. Any person who violates any ordinance or bylaw adopted pursuant to paragraph I of this section shall be subject to a civil penalty not to exceed \$10,000 per day of such violation.

38:17 Assessment for Water or Gas Supply. The governing body, or board of water or gas commissioners, if any, may assess upon the persons who are served by the water or gas system, or whose lands receive

special benefit from the water or gas system, their just share of the expense of constructing and maintaining the system or paying any capital debt or interest incurred in constructing or maintaining the system.

38:18 Water or Gas Rentals. For the defraying of the cost of construction, payment of the interest on any debt incurred, management, maintenance, operation and repair of water or gas systems, or construction, enlargement or improvement of such systems, the governing body, or the board of water or gas commissioners, if any, may establish a scale of rents to be called water rents or gas rents, may prescribe the manner in which and the time at which such rents are to be paid and may change such scale from time to time as may be deemed advisable. The amount of such rents may be based upon the consumption of water or gas on the premises connected to the water or gas system, or the number of persons served on the premises, or upon some other equitable basis.

38:19 Water or Gas Funds.

I. The funds received from the collection of water or gas rentals shall be kept as a separate and distinct fund to be known as the water fund or gas fund. Such fund shall be allowed to accumulate from year to year, shall not be commingled with town or city tax revenues, and shall not be deemed part of the municipality's general fund accumulated surplus. Such fund may be expended only for the purposes specified in RSA 38:18, or for the previous expansion or replacement of water or gas lines or water or gas systems.

II. Except when a capital reserve fund is established pursuant to paragraph III, all water funds and gas funds shall be held in the custody of the municipal treasurer. Estimates of anticipated water or gas rental revenues and anticipated expenditures from the water fund or gas fund shall be submitted to the governing body as set forth in RSA 32:4, if applicable, and shall be included as part of the municipal budget submitted to the local legislative body for approval. If the municipality has a properly-established board of water commissioners or board of gas commissioners, then notwithstanding RSA 41:29 or RSA 48:16, the treasurer shall pay out amounts from the water fund or gas fund only upon order of the board of water commissioners or the board of gas commissioners. Expenditures shall be within amounts appropriated by the local legislative body.

III. At the option of the local governing body, or of the board of water or gas commissioners, if any, all or part of any surplus in the water fund or the gas fund may be placed in one or more capital reserve funds held in the custody of the trustees of trust funds pursuant to RSA 35:7. If such a reserve fund is created, then the governing body, or board of water or gas commissioners, if any, may expend such funds pursuant to RSA 35:15 without prior approval or appropriation by the local legislative body, but all such expenditures shall be reported to the municipality pursuant to RSA 38:23. This section shall not be construed to prohibit the establishment of other capital reserve funds for any lawful purpose relating to municipal water or gas systems.

38:20 Commissioners. For the more convenient management of any such water-works or gas system, any such municipality may vest the construction, management, control and direction of the same in a board of water commissioners or a board of gas commissioners, as applicable, to consist of 3 or more citizens of such municipality, the commissioners to have such powers and duties as the municipality may prescribe. Their term of office shall be for 3 years and until their successors are elected and qualified. The first board of commissioners may be chosen for terms

of one, 2, and 3 years, respectively, by the legal voters of the municipality at any legal meeting or election at which the provisions of this chapter are accepted, or at any special meeting or election thereafter called for that purpose, and their successors shall be elected at each annual meeting or election thereafter in manner or form as the municipality may determine.

38:21 Appointment. The commissioners may be appointed by the mayor and board of aldermen or city council, by the selectmen of the town, or by the commissioners of the district if the municipality fails to elect or votes to allow appointment.

38:22 Compensation and Organization. The compensation of the commissioners shall be fixed by the municipality. They shall be sworn to the faithful discharge of their duties. They shall annually organize by choosing one of their number as chairperson of their board. They shall appoint a clerk and a superintendent of the works and such other officers as they may deem necessary, and shall thereupon furnish a certificate of such organization to the clerk of the municipality, who shall record the same in the clerk's records. The commissioners shall fix the compensation of all officers and agents appointed by them, and all officers and agents shall be sworn to the faithful discharge of their duties.

38:23 Reports. The commissioners shall annually, at the time other city, town, or district officers report, make a report to the municipality of the condition of the plant financially and otherwise, showing the funds of the department, the expenses and income of the department, and all other material facts. This report shall be published in the annual report of the municipality.

38:24 Protection of Water Supply. Any municipality or water company supplying water to the public for domestic use shall have the power to take by the exercise of the right of eminent domain any property needed to protect the purity of the water so supplied, upon petition to the superior court or in the case of a village district to the board of selectmen of the town or towns within which the district is situated and proceedings thereon as in case of a petition for the laying out of a highway.

38:25 Liens and Collection of Charges.

I. All charges for services furnished to patrons by a municipally owned water or gas works shall create a lien upon the real estate where such services are furnished.

II. A municipality may use any of the following collection procedures for charges, and the use of one collection procedure for one service shall not preclude the use of a different collection procedure for another service:

(a) A municipality may commit bills for charges to the tax collector with a warrant signed by the appropriate municipal officials requiring the tax collector to collect them; and the tax collector shall have the same rights and remedies, including a lien on the real estate, and be subject to the same liabilities in relation thereto as in the collection of taxes as provided in RSA 80; provided, however, that the real estate lien shall continue for 18 months from the date of the last unpaid bill.

(b) The official or board responsible for administering the municipal utility may collect charges for services by direct billing on any periodic basis it may choose. All charges which are delinquent may be committed to the collector of taxes with a warrant signed by the appropriate municipal officials requiring the tax collector to collect them. The collector of taxes shall have the same rights and remedies, including a lien on the real estate, and be subject to the same liabilities in relation thereto

as in the collection of taxes as provided in RSA 80; provided, however, that the real estate lien shall continue for 18 months from the date of the last unpaid bill.

(c) If the official or board responsible for administering the municipal utility has not committed the charges to the collector of taxes, the municipality shall have a lien upon the real estate where the services were furnished and the lien shall continue for 18 months from the date of the last unpaid bill, unless the municipality records in the registry of deeds for the county in which the land is situated a notice of lien, in which case the lien shall continue for 6 years from the date of the last unpaid bill. The lien may be enforced in a suit by the municipality against the owner of the real estate. In such a suit, the municipality shall have the right to a judgment for per year charges, interest at the rate of 12 percent from the date of the last unpaid bill to the date of judgment, and costs. The records in the municipal department which furnished the services shall be sufficient notice to maintain suit upon the lien against subsequent purchasers or attaching creditors of the real estate.

(d) When the services were furnished to some person or legal entity other than the owner of the real estate, the liens provided for in this paragraph shall be effective against the owner of the real estate only for charges of which the owner of the real estate was notified by the municipality within 120 days of the date the charges became delinquent; provided, however, that a municipality may meet these notice requirements by mailing to the owner of the real estate copies of the bills for services at the same time bills are furnished to the person or legal entity which received the services.

38:26 Security Deposits from Tenants. Notwithstanding any other provision of law, any public utility may obtain a security deposit from a customer who is not the owner of the premises serviced by the utility and who has a separate meter for the premises serviced, and shall not obtain a security deposit from the owner of the premises. The owner of the premises shall not be liable for the failure of a tenant to pay the utility bill when such tenant's premises has a separate meter, and the utility shall not have any lien on the property of the landlord under RSA 38:25 for the tenant's failure to pay the utility bill.

38:27 Effect on City Charters. Nothing contained in this chapter shall affect, alter, or change the provisions of any city charter with respect to the management, control, and direction of water or gas works.

2 New Chapter; Municipal Electric Systems. Amend RSA by inserting after chapter 38-A the following new chapter:

CHAPTER 38-B

MUNICIPAL ELECTRIC SYSTEMS

38-B:1 Definitions. In this chapter:

I. "Commission" means the public utilities commission, unless the context otherwise indicates.

II. "Utility" means any public utility engaged in the manufacture, distribution, or sale of electricity in the state.

III. "Municipality" means any city, town, or village district within the state.

38-B:2 Establishment, Acquisition and Expansion of Plants. Any municipality may:

I. Establish, expand, take, purchase, lease, or otherwise acquire and maintain and operate in accordance with the provisions of this chapter, one or more suitable plants:

(a) For the manufacture and distribution of electricity for municipal use; and

(b) For the use of its inhabitants and others, and for such other purposes as may be permitted, authorized, or directed by the commission.

II. For these purposes, take, purchase and hold in fee simple or otherwise lease or otherwise acquire and maintain any real or personal estate and any rights therein.

III. Do all other things necessary for carrying into effect the purposes of this chapter.

IV. Excavate and dig conduits and ditches in any highway or other land or place, and erect poles, place wires, and lay pipes for the transmission and distribution of electricity, in such places as may be deemed necessary and proper.

V. Change, enlarge, and extend the same from time to time when the municipality shall deem necessary, and maintain the same, having due regard for the safety and welfare of its citizens and security of the public travel.

38-B:3 Exemption for Municipal Small Scale Power Facility. Except in municipalities which have acquired, expanded, or established a plant under this chapter, the development by a municipality of any small scale power facility, as defined in RSA 374-D:1, IV shall not be subject to the provisions of this chapter. Nothing in this section shall be construed as exempting municipalities from the provisions of this chapter with respect to the acquisition of a utility plant and equipment if there exists a dispute between the municipality and the utility.

38-B:4 By Cities. Any city may initially establish such a plant after 2/3 of the members of the city council shall have voted, subject to the veto power of the mayor as provided by law, that it is expedient to do so, and after such action by the city council shall have been confirmed by a majority of the qualified voters at a regular election or at a special meeting duly warned in either case. Such confirming vote shall be had within one year from the date of the vote to establish such a plant, and if favorable, shall constitute a determination that such action is in the public interest. If the vote is unfavorable, the question shall not be again submitted to the voters within 2 years thereafter.

38-B:5 By Towns or Village Districts. Any town or village district may initially establish such a plant after 2/3 of all the voters present and voting at an annual or special meeting, duly warned in either case, have voted by ballot with the use of the checklist that it is expedient to do so. A favorable vote to establish such a plant shall constitute a final determination that such action is in the public interest. If such vote is unfavorable, the question shall not be again submitted to the voters within 2 years thereafter.

38-B:6 Notice to Utility. Within 30 days after the confirming vote provided for in RSA 38-B:4 or the vote provided for in RSA 38-B:5, the mayor of the city, the selectmen of the town, or the commissioners of the district may notify in writing any utility engaged, at the time of the vote, in generating or distributing electricity for sale in the municipality, of the vote. The municipality notifying any utility in such manner may purchase all or such portion of the utility's plant and property located within or without such municipality that the mayor of the city, selectmen of the town, or commissioners of the district determine to be necessary or convenient for the municipal utility service. The notice to such utility shall include an inquiry as to whether the utility elects to sell, in the manner hereinafter provided, that portion of its plant and prop-

erty located within or without the municipality which the municipality has identified as being necessary or convenient for the municipal utility service.

38-B:7 Reply by Utility. The utility shall reply to the inquiry provided for in RSA 38-B:6 by delivering its answer in writing to the mayor of the city, the selectmen of the town, or the commissioners of the district within 60 days of the receipt of the inquiry. If the reply is in the negative, or if the reply is not made within the 60 days, the municipality may proceed to acquire the plant as provided in RSA 38-B:10. If the reply is in the affirmative, the utility shall submit the price and terms it is willing to accept for all of its plant and property identified by the municipality in its inquiry, together with a detailed schedule of such plant and property with proper evidence of title. All of the plant and property identified by the municipality shall at all reasonable times thereafter be open to the examination of the officers and agents of the municipality and others charged with the duty of determining the fair value of the property.

38-B:8 By Agreement. The mayor and council of a city, the selectmen of a town, or the commissioners of a village district, may negotiate and agree with the utility upon the price to be paid for such plant and property; provided, however, that such agreement shall not be binding upon any city until ratified by a vote of the city council or upon any town or village district until ratified by the voters of the town or village district in the manner provided in RSA 38-B:5. Such vote shall be had within 90 days of the date of the filing of the reply provided in RSA 38-B:7.

38-B:9 Valuation. If the municipality fails to ratify the agreement to purchase in the manner provided in RSA 38-B:8 or if the price cannot be agreed upon, or if it cannot be agreed as to how much, if any, of the plant and property lying without the municipality is convenient or necessary for the municipal utility service or if the schedules of property submitted in accordance with RSA 38-B:7 are not satisfactory, either the municipality or the utility may petition the commission for a determination of these questions. The commission, after proper notice and hearing, shall decide the matters in dispute; and shall also, when required to fix the price to be paid for such plant and property, determine the amount of damages, if any, caused by the severance of the plant and property proposed to be purchased from the other plant and property of the owner which amount shall be limited to the value of such plant and property and the cost of direct remedial requirements, such as new through-connections in transmission lines, and shall exclude consequential damages such as stranded investment in generation, storage, or supply arrangements. From all of such determinations there shall be the right of appeal to the superior court, and upon such appeal the price determined by the commission may be considered as evidence on the question of the value of the plant and property. The expense to the commission for the investigation of the matters covered by the petition, including the amounts expended for experts, accountants, or other assistants, and salaries and expenses of all employees of the commission for the time actually devoted to the investigation, but not including any part of the salaries of the commissioners, shall be paid by the parties involved, in the manner fixed by the commission.

38-B:10 Construction or Condemnation. If the utility shall have replied to the inquiry provided for in RSA 38-B:7 in the negative or if it shall have failed to reply within the time prescribed in RSA 38-B:7, the municipality, in the event that it shall have passed the vote or votes required in RSA 38-B:4 and 38-B:5, may construct a municipal plant or may take

all or any portion of such private plant and property by condemnation, paying therefor just compensation determined in the manner provided in RSA 38-B:9. A municipality that has an existing municipal plant may expand such plant or may take all or a portion of such plant owned by a utility which is necessary or convenient for expanded municipal utility service, paying therefor just compensation determined in the manner provided in RSA 38-B:9.

38-B:11 Ratification. Within 90 days of the final determination of the price to be paid for the plant and property to be taken or acquired under the provisions of RSA 38-B:9 or 38-B:10, the municipality shall decide whether or not to take the plant and property at such price by a vote similar to the ratifying vote provided in RSA 38-B:8. In the event that such vote or the vote in RSA 38-B:8 is in the affirmative, the municipality may then vote, within 90 days thereof, to raise by taxation, and appropriate, or, as provided by RSA 33, to borrow such sums of money on the credit of the municipality as may from time to time be deemed necessary and expedient for the purpose of defraying the cost of purchasing or taking the plant, property, or facilities of the utility which the municipality may thus acquire. Such indebtedness shall not exceed at any one time 10 percent of the tax valuation of the municipality, or, in the event of a taking, such price and damages as are finally determined under the provisions of this chapter. If the money is so raised it shall immediately be paid to the utility, which shall thereupon execute a proper conveyance and surrender the plant and property to the municipality, which shall thereafter operate it as a public utility. If the ratifying vote provided for in this section shall be in the negative, no other action under this chapter shall be had during the ensuing period of 2 years.

38-B:12 Competition Among Municipal and Public Utilities. A municipality which has established and constructed a municipal utility plant or acquired the plant, property, or facilities of a utility within the municipality may serve any and all areas within such municipality without regard to whether one or more utilities are then or may later serve such areas. Subject to the powers of the municipality to take or purchase suitable plants for the manufacture and distribution of electricity for municipal use and for the use of its inhabitants and others, and subject to the laws governing utilities, a utility may serve any and all areas within a municipality without regard to whether the municipality is then serving or may later serve such areas. No utility shall construct redundant or parallel utility lines. Such duplication of lines shall be deemed contrary to sound economic policy and contrary to the public interest.

38-B:13 Operation of Plant. A municipality, which has so acquired the plant, property, or facilities of a public utility in any other municipality, may operate within such other municipality as a public utility with the same rights and franchises which the owners of such outlying plant, as purchased, would have had such purchase not been made. The operation by a municipality outside its own limits shall be subject to the jurisdiction of the commission as in the case of any other public utility. If the outlying municipality shall itself vote to establish a municipal plant all the provisions of this chapter shall be binding as to such determination.

38-B:14 Taking Property. Any such municipality may enter upon and take by eminent domain any land or any interest in land or water right within its limits, or in the case of a village district within the limits of the town or towns within which it is situated, which may be necessary for the construction, extension, or maintenance of its plant, and shall pay all damages sustained thereby, or by any other thing done under the authority of this chapter.

38-B:15 Damages. If the municipality shall not agree with the owner of the property as to damages, either party may apply to the superior court in the county where the town or district is located, or if the municipality is a village district then to the board of selectmen of the town or towns within which the village district is situated, to have the same laid out and the damages determined and proceedings thereon shall be as upon a petition for the laying out of a highway.

38-B:16 Supply Contracts. Any such municipality may contract with individuals, corporations, and other municipalities and the citizens of such other municipalities for supplying them with electricity for any of the purposes named or contemplated in this chapter, and make such contracts, and establish such regulations and such reasonable tolls for the use thereof, as may from time to time be authorized by the commission.

38-B:17 Commissioners. For the more convenient management of any such electric system, any such municipality may vest the construction, management, control and direction of the same in a board of commissioners to consist of 3 or more citizens of such municipality, the commissioners to have such powers and duties as the municipality may prescribe. Their term of office shall be for 3 years and until their successors are elected and qualified. The first board of commissioners may be chosen for terms of one, 2, and 3 years, respectively, by the legal voters of the municipality at any legal meeting or election at which the provisions of this chapter are accepted, or at any special meeting or election thereafter called for that purpose, and their successors shall be elected at each annual meeting or election thereafter in the manner or form as the municipality may determine.

38-B:18 Appointment. The commissioners may be appointed by the mayor and board of aldermen or city council, by the selectmen of the town, or by the commissioners of the district if the municipality fails to elect or votes to allow appointments.

38-B:19 Compensation and Organization. The compensation of the commissioners shall be fixed by the municipality. They shall be sworn to the faithful discharge of their duties. They shall annually organize by choosing one of their number as chairperson of their board. They shall appoint a clerk and a superintendent of the works and such other officers as they may deem necessary, and shall thereupon furnish a certificate of such organization to the clerk of the municipality, who shall record the same in the clerk's records. The commissioners shall fix the compensation of all officers and agents appointed by them, and all officers and agents shall be sworn to the faithful discharge of their duties.

38-B:20 Reports. The commissioners shall annually, at the time other city, town, or district officers report, make a report to the municipality of the condition of the plant financially and otherwise, showing the funds of the department, the expenses and income of the department, and all other material facts. This report shall be published in the annual report of the municipality.

38-B:21 Liens and Collection of Charges.

I. All charges for services furnished to patrons by a municipally owned electric works shall create a lien upon the real estate where such services are furnished.

II. A municipality may use any of the following collection procedures for charges and the use of one collection procedure for one service shall not preclude the use of a different collection procedure for another service:

(a) A municipality may commit bills for charges to the tax collector with a warrant signed by the appropriate municipal officials requiring the tax collector to collect them. The tax collector shall have the same rights and remedies, including a lien on the real estate, and be subject to the same liabilities in relation thereto as in the collection of taxes as provided in RSA 80; provided, however, that the real estate lien shall continue for 18 months from the date of the last unpaid bill.

(b) The official or board responsible for administering the municipal utility may collect charges for services by direct billing on any periodic basis it may choose. All charges which are delinquent may be committed to the tax collector with a warrant signed by the appropriate municipal officials requiring the tax collector to collect them. The tax collector shall have the same rights and remedies, including a lien on the real estate, and be subject to the same liabilities in relation thereto as in the collection of taxes as provided in RSA 80; provided, however, that the real estate lien shall continue for 18 months from the date of the last unpaid bill.

(c) If the official or board responsible for administering the municipal utility has not committed the charges to the collector of taxes, the municipality shall have a lien upon the real estate where the services were furnished and the lien shall continue for 18 months from the date of the last unpaid bill, unless the municipality records in the registry of deeds for the county in which the land is situated a notice of lien, in which case the lien shall continue for 6 years from the date of the last unpaid bill. The lien may be enforced in a suit by the municipality against the owner of the real estate. In such a suit, the municipality shall have the right to a judgment for per year charges, interest at the rate of 12 percent from the date of the last unpaid bill to the date of judgment, and costs. The records in the municipal department which furnished the services shall be sufficient notice to maintain suit upon the lien against subsequent purchasers or attaching creditors of the real estate.

(d) When the services were furnished to some person or legal entity other than the owner of the real estate, the liens provided for in this paragraph shall be effective against the owner of the real estate only for charges of which the owner of the real estate was notified by the municipality within 120 days of the date the charges became delinquent; provided, however, that a municipality may meet these notice requirements by mailing to the owner of the real estate copies of the bills for services at the same time bills are furnished to the person or legal entity which received the services.

38-B:22 Security Deposits from Tenants. Notwithstanding any other provision of law, any public utility, including any municipal corporation, providing electricity services other than for resale to a customer who is not the owner of the premises serviced by the utility and who has a separate electric meter, for the premises serviced, may obtain a security deposit from the customer only, and shall not obtain a security deposit from the owner of the premises. The owner of the premises shall not be liable for the failure of a tenant to pay the utility bill when such tenant's premises has a separate meter, and the utility shall not have any lien on the property of the landlord under RSA 38-B:21 for the tenant's failure to pay the utility bill.

38-B:23 Effect on City Charters. Nothing contained in this chapter shall affect, alter or change the provisions of any city charter with respect to the management, control, and direction of electric works.

Amend the bill by replacing all after section 11 with the following:

12 Contingency. RSA 38-B:12 of section 2 of this act shall only take effect if HB 1392 of the 1996 legislative session becomes law. If HB 1392 does not become law, then RSA 38-B:12 shall take effect on the date on which the electric public utilities in this state are required to open their service territories to retail competition as determined by the public utility commission.

13 Effective Date.

I. RSA 38-B:12 as inserted by section 2 of this act shall take effect as provided in section 12.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill revises RSA 38, relative to municipal lighting and water systems, to apply to water and gas systems and inserts new chapters, RSA 38-B, to govern the establishment and operation of municipal electric systems.

SENATOR KEOUGH: SB 610 revises RSA 38, relative to municipal lighting and water systems. The bill changes RSA 38 to apply to water and gas systems only, and adds a new chapter RSA 38-B to govern the establishment and operation of municipal electric systems. The citizens of New Hampshire have had the right to municipalize their electric service as far back as 1913. This bill recognizes that right, and modernizes the procedures required before a municipality can make such an election. The amended bill provides for the flexibility necessary for municipalities to respond to the dynamic changes in the electric industry and provides that the provisions of the bill will coincide with the passage of HB 1392. Municipalities will not be able to compete with investor owned utilities, until such time as the entire industry is opened up to competition. The amended bill has the approval of the PUC. The committee has voted unanimously ought to pass as amended.

Amendment adopted.

Ordered to third reading.

SB 662-FN, an act relative to real estate appraisers. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Rodeschin for the committee.

5243L

Amendment to SB 662-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Requirement That Appraisals be Performed in Accordance With Uniform Standards. Amend RSA 310-B:1 to read as follows:

310-B:1 Purpose. The purpose of this chapter is to bring New Hampshire into compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989[. The federal act's purpose is to protect federal financial and public policy interests in real estate related transactions] *and to provide protection to the general public* by requiring that real estate appraisals used in connection with federally-related transactions are performed [in writing,] in accordance with [uniform standards] *the Uniform Standards of Professional Appraisal Practice, as amended*, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective

supervision. ***All appraisals performed in the state and all licensed and certified appraisers in the state shall be under the jurisdiction of the real estate appraiser board.***

2 Definition Modified. Amend RSA 310-B:2, II to read as follows:

II. "Appraisal" or "real estate appraisal" means a written statement independently and impartially prepared by a licensed or certified appraiser, [and] ***whether or not*** used in connection with a federally-related ***or non-federally-related*** transaction under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

3 New Paragraph; Definition Added. Amend RSA 310-B:2 by inserting after paragraph VI the following new paragraph:

VI-a. "Broker price opinion" means the value of real property determined by a person licensed under this chapter or under RSA 331-A.

4 New Paragraph; Definition Added. Amend RSA 310-B:2 by inserting after paragraph VIII the following new paragraph:

VIII-a. "Comparative market analysis" means a study of real estate market conditions for a specific type of property, prepared by a person licensed under this chapter or under RSA 331-A.

5 New Paragraph; Definition Added. Amend RSA 310-B:2 by inserting after paragraph XIV the following new paragraph:

XIV-a. "Uniform Standards of Professional Appraisal Practice" or "USPAP" are standards set forth by the Appraisal Foundation, as amended.

6 Licensed Real Estate Brokers and Salespersons Authorized to Perform a Comparative Market Analysis or a Broker Price Opinion. Amend RSA 310-B:3, II to read as follows:

II. Paragraph I shall not preclude a person who is [not certified or licensed as a real estate appraiser] ***licensed under RSA 331-A as a real estate broker or salesperson or under this chapter*** from [appraising real estate for non-federally related transactions for compensation] ***performing either a comparative market analysis or broker price opinion.***

7 New Sections; Advertising; Disclosure; Financial Institutions; Lenders. Amend RSA 310-B by inserting after section 3 the following new sections:

310-B:3-a Advertising. A person who is not licensed or certified under the provisions of this chapter shall not advertise or cause to be published an advertisement for appraisal services.

310-B:3-b Disclosure Requirement. Comparative market analyses and broker price opinions or any other opinion on value of real estate shall not be used without disclosure. Comparative market analyses and broker price opinions shall have a disclosure statement that reads: "This is not an appraisal and is not required to comply with USPAP standards."

310-B:3-c Financial Institutions; Lenders. RSA 310-B:3, I shall not preclude a financial institution or any lender under the supervision of the banking department, from using its own employees to perform an evaluation, or from using market based data relating to real property valuations provided by secondary market underwriters or other vendors.

8 Real Estate Appraisal Board Composition Limited and Terms Changed and Limited. Amend RSA 310-B:4, III to read as follows:

III. [On or before July 1, 1991,] Each real estate appraiser member of the board shall be certified or licensed as a real estate appraiser un-

der this chapter. One such member shall hold [the] *a* residential license and one such member shall hold a general appraiser certificate. ***No more than one board member shall serve as an officer of a professional association which represents appraisers.***

9 Reference to Banking Commissioner Deleted. Amend RSA 310-B:4, VII to read as follows:

VII. The [chairman] ***chair*** of the board shall be elected from the board's members. [Neither the banking commissioner nor his designee shall serve as chairman.]

10 Classifications of Real Estate Appraisers. The introductory paragraph of RSA 310-B:6, I is repealed and reenacted to read as follows:

I. There shall be the following classifications of real estate appraisers which shall meet the requirements of this chapter, rules adopted by the board, and the following criteria:

11 New Subparagraph; Classifications of Real Estate Appraisers. Amend RSA 310-B:6, I by inserting after subparagraph (c) the following new subparagraph:

(d) The apprentice real estate appraiser classification shall consist of those persons who do not meet the requirements under RSA 310-B:6, I(a), (b), or (c), or RSA 310-B:9-a, but are in the process of completing the requirements for one of the classifications of a real estate appraiser. Apprentice real estate appraisers shall be required to work under the supervision of either a New Hampshire licensed or certified appraiser, who shall be required to register such apprentices with the board, until the requirements for licensure or certification have been met.

12 New Section; License Qualifications. Amend RSA 310-B by inserting after section 9 the following new section:

310-B:9-a Licensed Residential Real Estate Appraiser; Qualification Based on Experience.

I. Notwithstanding any other law to the contrary, a person shall be classified as a licensed residential real estate appraiser if such person within one year from the board's adoption of rules under RSA 541-A:

(a) Has demonstrated 5 years' experience as a real estate appraiser or a real estate broker, licensed under RSA 331-A.

(b) Has remitted an application fee that is 1/3 of the fee for a licensed residential real estate appraiser.

II. Once a license has been issued, the licensee shall comply with all requirements under this chapter and by the board relative to licensed residential real estate appraisers.

13 New Sections; Grievances; Complaints. Amend RSA 310-B by inserting after section 17 the following new sections:

310-B:17-a Grievances.

I. All grievances shall be in writing and objectively received and reviewed by the board.

II. If the board determines that a grievance requires further investigation, it shall be acted upon within 90 days.

III. Disposition of all grievances shall be voted on by the board.

IV. The board, on its own motion and in accordance with the provisions of this chapter, may commence a disciplinary proceeding.

310-B:17-b Complaints.

I. Complaints shall not be accepted for filing with the board unless the grievance procedures in RSA 310-B:17-a have been concluded, and the board has not initiated disciplinary proceedings. The aggrieved party may proceed with the complaint process if the aggrieved party does not agree with the decision of the board.

II. To be accepted for filing, complaints shall be filed on a form provided by the board.

III. Properly filed complaints shall be reviewed by the board to determine compliance with this section.

IV. Upon confirmation that a complaint complies with the provisions of this section, the board shall schedule a disciplinary proceeding on the complaint in accordance with the provisions of this chapter.

14 Disciplinary Proceedings. Amend the introductory paragraph of RSA 310-B:18 to read as follows:

The board may ***assess an administrative fine no more than \$2,000, revoke or suspend the licensure or certification of, require such other disciplinary action as provided under rules adopted by the board pursuant to RSA 541-A, or take any combination of the preceding actions relative to*** any licensed or certified real estate appraiser, in accordance with the provisions of this chapter, upon any of the grounds set forth in this section. ***All Fines imposed by the board shall be deposited in the general fund.*** The board may investigate the actions of a licensed or certified real estate appraiser[, and may revoke or suspend the license or certificate of a licensed or certified real estate appraiser] for any of the following acts or omissions:

15 New Section; Penalty. Amend RSA 310-B by inserting after section 24 the following new section:

310-B:24-a Penalty. Any person who violates RSA 310-B:3, 310-B:3-a, or 310-B:3-b shall be guilty of a misdemeanor.

16 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill modifies the regulation of real estate appraisers by requiring that real estate appraisals be performed in accordance with uniform standards and establishes grievance, complaint, and penalty provisions.

This bill is a result of the study committee established under 1995, 185.

SENATOR RODESCHIN: SB 662 is a product of a study committee and the serious and dedicated work by various interested groups. The bill provides the New Hampshire Board of Real Estate Appraisers with the authority over real estate appraisals done within the state and over real estate appraisers. Appraisers will have to be licensed and certified by the board and will be subject to board discipline if they violate the standards under the uniformed standards of professional appraisal practice. The bill also allows real estate professionals to continue to perform the services that they have provided in the past to their customers, namely broker priced opinions and comparative market analysis. The bill was a product of hard work and compromise, and the committee voted unanimously ought to pass. All of the various groups that the committee worked with which were the real estate people, the bankers, the appraisers, the appraisal board, all did a little compromise on their end and the committee would ask you to support their ought to pass as amended recommendation.

Amendment adopted.

Ordered to third reading.

SB 539-FN, an act requiring all drivers to be tested for evidence of blood alcohol and drug content if involved in a motor vehicle accident causing death. Finance Committee. Vote: 6-0. Ought to pass. Senator Keough for the committee.

SENATOR KEOUGH: Mr. President, this bill is very simple. It is a good bill. It requires that all drivers who are involved in an accident resulting in death, be tested for alcohol or other drugs. Those tests are to be conducted by the Division of Public Health Services. It was voted unanimously ought to pass by the committee.

Adopted.

Ordered to third reading.

SB 547-FN-A, an act requiring the department of safety services, division of safety services, to publish the New Hampshire boaters guide and making an appropriation therefor. Finance Committee. Vote: 6-0. Ought to pass with amendment. Senator Colantuono for the committee.

5215L

Amendment to SB 547-FN-A

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Publication of Boaters Guide. Amend RSA 270-D by inserting after section 2 the following new section:

270-D:2-a Boaters Guide. The department of safety, division of safety services shall publish the New Hampshire Boaters guide. The guide shall be published as frequently as necessary.

2 Effective Date. This act shall take effect upon its passage.

ANALYSIS

This bill requires the department of safety, division of safety services to publish the New Hampshire boaters guide.

SENATOR COLANTUONO: This bill as amended requires the Department of Safety Services to publish the New Hampshire Boaters Guide. There was an appropriation of \$40,000 to accomplish this. That appropriation has been taken out of the bill. The effective date has been amended to take effect upon passage. We believe that the department has sufficient funds that were appropriated for this biennium that were not used this past summer for our safety services. They can publish the guide with those funds.

Amendment adopted.

Ordered to third reading.

SB 554-FN, an act requiring the department of resources and economic development, the office of state planning, Pease development authority, and the business finance authority to make annual reports on their economic development programs. Finance Committee. Vote: 6-0. Ought to pass with amendment. Senator Colantuono for the committee.

5218L

Amendment to SB 554-FN

Amend the title of the bill by replacing it with the following:

AN ACT

requiring the department of resources and economic development, the office of state planning, Pease development authority, and the business finance authority to make annual reports on their economic development programs and allowing state credit unions to participate in the capital access program.

Amend the bill by replacing all after section 4 with the following:

5 State Credit Unions Added. Amend RSA 162-A:2, VII-IX to read as follows:

VII. "CAP fund" means a fund established by the authority pursuant to RSA 162-A:12, which fund shall consist of contributions from the authority, the participating state bank *or state credit union*, and borrowers whose loans are to be secured by the fund.

VIII. "CAP loan" means a loan that is made to a business by a participating state bank *or state credit union* and is entitled to be secured by a CAP fund.

IX. "CAP participation agreement" means an agreement between the authority and a participating state bank *or state credit union* setting out the terms and conditions under which the authority will make contributions to a CAP fund established for the benefit of that participating state bank *or state credit union* and specifying the criteria for a loan to qualify as a CAP loan.

6 State Credit Unions Added. Amend RSA 162-A:2, XIII to read as follows:

XIII. "Participating state bank *or state credit union*" means any state bank *or state credit union* participating in the capital access program established by RSA 162-A:12.

7 New Paragraph; Definition Added. Amend RSA 162-A:2 by inserting after paragraph XVI the following new paragraph:

XVII. "State credit union" means any credit union organized under the laws of the United States, any state, or any foreign country that is authorized by law to make loans and accept deposits in New Hampshire.

8 State Credit Unions Added. Amend RSA 162-A:12 to read as follows: 162-A:12 Capital Access Program.

I. The authority may contribute money to funds, to be known as "CAP funds," that shall be held for the benefit of participating state banks *and state credit unions*. Each such fund shall be held by the authority separately and apart from all other funds of the authority and shall be held exclusively to secure principal of and interest on CAP loans made by a participating state bank *or state credit union*.

II. The amount of the authority's contribution to a CAP fund shall not exceed 10 percent of the principal amount of the CAP loans to be secured by the CAP fund. As a condition of the authority making a contribution to a CAP fund, the authority may require the borrower or the participating state bank *or state credit union* to make a contribution to the CAP fund and may impose such other conditions or requirements as the authority may deem necessary or desirable. All moneys contributed to a CAP fund shall be held in the name of the authority. Investment earnings on the CAP fund shall be credited to the fund, and such earnings shall be periodically paid to the authority unless the CAP participation agreement otherwise provides.

III. Prior to establishing a CAP fund at a participating state bank *or state credit union*, the authority shall enter into a CAP participation agreement with the participating state bank *or state credit union*. The CAP participation agreement shall specify:

(a) The maximum amount of the authority's contributions to the CAP fund.

(b) The conditions under which the authority will make contributions to the CAP fund.

(c) The conditions under which the participating state bank *or state credit union* may demand payment from a CAP fund to pay a defaulted CAP loan.

(d) Minimum due diligence procedures for servicing CAP loans.

(e) Conditions under which the participating state bank, *or state credit union*, or [a] *other* borrower will be required to contribute to the CAP fund.

(f) Provision for the payment of authority fees, costs, and expenses from earnings on the CAP fund or otherwise.

(g) Provisions for the termination of the CAP fund, in whole or in part, and disbursement of any excesses in the CAP fund.

(h) Criteria and procedures for qualifying a loan as a CAP loan.

(i) Requirements that the participating state bank *or state credit union* report to the authority not less often than annually regarding outstanding balances on CAP loans, delinquent CAP loans and such other information as the authority may deem appropriate.

(j) Permitted investments in the CAP fund.

(k) Other terms and conditions as the authority may deem necessary or desirable.

IV.(a) At a minimum, CAP loans shall meet the following requirements:

(1) The borrower is either a start-up business or did not have annual sales in its most recently completed fiscal year of greater than \$5,000,000.

(2) The total outstanding principal amount of CAP loans to the borrower does not exceed \$500,000.

(3) The proceeds of the CAP loan shall be used for business purposes.

(b) The authority may from time to time impose requirements on CAP loans in addition to those contained in subparagraph (a) or in a CAP participation agreement by written notice to participating state banks *and state credit unions*, but such additional requirements shall not apply to CAP loans already made, or to CAP loans for which written commitments exist, provided CAP loans from these written commitments are made within 3 months of the date of the written notice. Such notices shall not constitute rules within the meaning of RSA 541-A.

V. The authority shall not initially fund any CAP fund or enter into a CAP participation agreement or any material amendment to a CAP participation agreement, unless after a hearing the governor and council have made the findings specified in RSA 162-A:18.

9 State Credit Unions Added. Amend RSA 162-A:18, II(f)(1) and (2) to read as follows:

(1) The proposed participating state bank *or state credit union* is qualified to participate under the provision of this chapter;

(2) Appropriate measures have been taken to ensure that the participating state bank *or state credit union* makes only CAP loans meeting the requirements of RSA 162-A:12, IV;

10 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires the department of resources and economic development, the office of state planning, Pease development authority and the business finance authority to make annual reports on their economic development programs.

This bill also allows state credit unions to participate in the capital access program.

SENATOR COLANTUONO: This bill simply does what the title says, it requires annual reports from these agencies. The Finance Committee took a look at the fiscal impact, which is negligible, so we recommend passage.

Amendment adopted.

Ordered to third reading.

SB 562-FN-LOCAL, an act returning municipal ordinance fines to the municipalities. Finance Committee. Vote: 5-1. Inexpedient to legislate. Senator Currier for the committee.

SENATOR CURRIER: The Senate Finance Committee reviewed this bill very significantly, and although it has some great merit in terms of actually sending the municipal ordinance fines back to the municipalities, it was felt at this time that with the constraints that we currently have on the biennium budget, that this would be totally inappropriate to do at this time.

SENATOR PIGNATELLI: I disagree with Senator Currier and his committee's recommendation. This bill passed out of the committee unanimously, it passed the Senate unanimously, and was then sent to the Finance Committee. This is the time for this bill to pass. It is unfortunate that we are balancing the state's budget on the backs of our local communities. This is a misstate and I think that we should reject the inexpedient to legislate motion and have an ought to pass motion. I am going to request a roll call on the inexpedient to legislate motion.

SENATOR LOVEJOY: Senator Pignatelli, if you might enlighten me where we are going to cut this \$8-\$12 million and what services that we are providing now for this state that would be cut, where it would come from? I would appreciate that before I vote.

SENATOR PIGNATELLI: Well it is my feeling that we ought to help the communities as much we can. We have just cut \$32 million out of Health and Human Services and we have promised that that isn't going to affect any services. So my suggestion would be, to have Terry Morton move out of Health and Human Services and move into several other departments and see what he can do to get us our \$8 million and help out the communities.

SENATOR LOVEJOY: Certainly. My original question, Senator, where are we going to get this money to save the \$12 million? You are asking us to take the money from the state, I am asking you, where are we going to get it?

SENATOR PIGNATELLI: Actually, I am not asking you to take the money from the state. It is the local communities' money that they send to the state. So I am asking you to leave it in the local community.

SENATOR LOVEJOY: My question, Senator, where are we going to get the money? Where is it going to come from?

SENATOR PIGNATELLI: It is coming from the same place where we get all of the other monies that have state services, from the general fund.

SENATOR LOVEJOY: Thank you.

SENATOR STAWASZ: I guess, Senator Pignatelli, that we don't get all of our money from the general fund. We get it from a lot of places, includ-

ing cities and towns. Senator Lovejoy's question, I guess that I will try to be a little more direct. If we take \$8 million out of our budget now, that is expected and has always come in from the cities and towns, where specifically, will you find the \$8 million to replace it now?

SENATOR PIGNATELLI: I would look to people who are working in state government who are putting the budgets together. I would look to them to see where they can cut their budgets.

SENATOR STAWASZ: As you know, Senator Pignatelli, our budgets are now done. That would be fine for the next biennium, but you are asking for \$8 million now. Are you suggesting that state employees should contribute a pay cut?

SENATOR PIGNATELLI: No, I am not suggesting that, Senator Stawasz.

SENATOR STAWASZ: Where then, Senator Pignatelli, is the \$8 million?

SENATOR PIGNATELLI: The \$8 million, and I am not even sure that it is \$8 million, the money will come from the general fund, where we get money for any specials that we have, any services that we provide. This is supported by the mayors in most of the cities in this state. The mayor of Nashua, the mayor of Rochester, the mayor of Portsmouth, the mayor of Laconia, Franklin, Dover, Claremont, Lebanon, Sommersworth, Berlin, Keene and Concord. They are all crying out for their money to be kept in their municipality. It is their money. It is used to enforce local municipal ordinances, the local police to enforce these local municipal ordinances. They go to court and they testify, and they obtain this money for the local municipalities. The fact that it comes to the state is not right. It should remain with the local municipalities.

Recess.

Out of recess.

SENATOR SHAHEEN: Senator Pignatelli, isn't it true that the way the bill is worded, that in fact, it wouldn't take money out of the general fund for this biennium, that once it becomes effective, 60 days after its passage, that it would allow municipalities to keep the fines that they are currently collecting?

SENATOR PIGNATELLI: Yes it would.

SENATOR PIGNATELLI: Senator Lovejoy, we have a bill on the table right now, it is SB 607-FN-A-L, an act lowering the business profits tax. You are the prime sponsor of that bill. I guess that I would like to ask you two questions. Where are you going to get the money to do that? And I guess that my answer to your question, would be that I get my money from the same place that you get your money from.

SENATOR PIGNATELLI: I guess that if you would like to join with your bill, my bill on the table, I would certainly support that, Senator.

SENATOR PIGNATELLI: I don't think that I am willing to do that, but thank you for asking.

SENATOR COLANTUONO: I understand that the bill came out of committee, I suppose, unanimously, that is what I have heard. Oh, it wasn't unanimous, okay. Thank you. I want to remind the members of the body that this is not as clear-cut an issue as some people want to make it seem. Obviously, municipalities want to get every dime that they can and they are trying in every way that they can, and venue that they can. But, we have to remember that we have a court system, that is a state court sys-

tem and it is funded by the state. It needs revenue to operate also. When a locality, whether it be the building inspector or the police department or the traffic bureau or the parking meter attendants, come into our state court system to enforce municipal ordinances, they're getting a benefit from that from the state. They are getting their laws enforced, and there should be a price to pay for that. So I have no problem whatsoever with maintaining the current system where the state court system retains to fine monies that are collected pursuant to not just state crimes and penalties, but also the municipalities. If the municipalities want to set up their own court system and fund it with their own fine monies, fine. That would be a duplication of efforts totally unnecessary. So I disagree with the policy of the bill. We have to remember that our court system is the separate co-equal third branch of government, but it only spends 2 percent of the money that our state government spends, and it is constantly under financial pressure, and constantly under pressure to have cuts and cut backs. In an era where our cities, Manchester and Nashua, are screaming for more judges for their courts, I don't think that it is right for them to want to take money out of the court system at the same time. So I strongly support the committee's recommendation of inexpedient to legislate.

SENATOR WHEELER: I do sit on the policy committee and do support the policy of this bill or some variation thereof, to get more money to stay at the local level from these fines. I voted for this bill in the policy committee; however, knowing and hoping against hope, that the Senate Finance Committee could find the revenues, and like everything that we do around here, we need to find the money to fund it. So I will be voting it inexpedient to legislate on the floor.

SENATOR CURRIER: I am not sure that I can remember the year that this all took place, but it was prior to my interest in the Senate, which was in 1988. The municipalities, when I was a selectman, used to run the court system, and at some point during that process, as part of the deal that the state taking over the court system, the fines and revenues were obviously the source of the mechanism to do it. Some district courts, obviously made money and some of them lost money. I think that the percentages to the latter, were probably greater than the former, in terms of how effective the courts were when they were run by the municipalities. I support the concept of the fines staying locally, but as chairman of Senate Finance, I can't find a program that I would be willing to cut. If you go to one aspect of the fiscal impact statement that says, "administrative fees for \$793,000," then you go up to the motor vehicle violation that was \$12 million, so somewhere in the middle there, is the amount of money that we would be able to let the cities and towns maintain. I don't have a program that I can selectively single out to take that money from. I have stood on re-election day against a sales or income tax, so these are the hard to fast decisions that we are all going to have to make. There are a number of bills in Senate Finance that have money attached to them. Even though the governor presented to the Joint Committee on Finance, with the House and the Senate this morning, he is more optimistic about finding the monies that are going to be coming from Washington than some people. I have a tendency to agree with the governor, at this particular juncture, that we probably will in fact, get those monies, and we are not in as bleak a situation as we have been forecasted with the various projections that the House had been coming up with. I do think that we have to be real prudent in our decisions in the next

couple of months, regarding additional spending. You have to remember, we passed the first budget since the great depression that was less than the previous budget. We did that with, yes, rosier revenue enhancements, revenue figures. The governor said this morning that I believe that it was 13 of the revenue sources were greater than had been projected. Yes, there are some that are less, but with March being the bellweather month for revenues, we will have a better idea of where we actually stand at the end of March. I, for one, as a member of Senate Finance, am taking the attitude that if a bill that comes to Senate Finance, at this particular junction, doesn't have its own revenue source, or it isn't revenue neutral, it probably isn't going to see much light of day coming out of Senate Finance.

SENATOR F. KING: I suspect that we are going to try to find the time to hear this argument of local government versus the state and the issue that we are talking about now. I just wanted to say that when I am not a senator, I am also a member of local government, I am chairman of the board of selectmen in my town. I think that town and city governments have to do the same thing that the state government has to do. They have to live within their revenues. We went last year, to my town, and we had a budget that reduced our property taxes by 25 percent. Next Tuesday night we are going to have a budget that is going to reduce them an additional 22 percent. So I think that it would be nice to vote for this so that we would have more money in my town, but I think that we all have the same problem. I think that we have a budget, we have to live with a budget that we approve, the monies that are there, and the monies that we are going to have. I think that the obligation at home, like there is an obligation here, to live within our revenues that are available. I think that we should bear that in mind and discuss the events of the day.

Senator Barnes moved the question.

Adopted.

Question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Larsen.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Barnes, Russman, Danaïs, Delahunty, Keough.

The following Senators voted No: Blaisdell, Pignatelli, Larsen, J. King, Shaheen, Cohen.

Yeas: 18 - Nays: 6

Committee report of inexpedient to legislate is adopted.

SUSPENSION OF THE RULES

Senator Russman moved that the Rules of the Senate be suspended to dispense with the holding of a hearing, the notice of a committee report in the calendar, and that the bill be put on Second Reading at the present time.

HB 1627, authorizing the Lamprey Regional Cooperative to issue bonds and notes.

SENATOR RUSSMAN: This bill is in a situation where the Lamprey Regional Cooperative, in terms of solid waste, they need to build another transfer station. They thought that they had the statutory authority to do it, and when they went to the bond council, they found that the bond council actually wants a vote of the legislature. They may in fact, never be in a position to ever have to spend the money, but they need the authority and apparently it has already passed what they were supposed to do and they had a hearing in the House and it went through the process. There was no opposition whatsoever so they moved it inexpedient, but they need it as quickly as possible.

Adopted by the necessary 2/3 vote.

HB 1627, authorizing the Lamprey Regional Cooperative to issue bonds and notes. Environment Committee. Ought to pass. Senator Russman for the committee.

Adopted.

Ordered to third reading.

SB 666-FN-A an act relative to a multi-jurisdictional fuel tax agreement. Finance Committee. Vote: 6-0. Ought to pass. Senator Barnes for the committee.

SENATOR BARNES: This blurb is very exciting so please follow along. At this time, New Hampshire is part of RFTA, the Regional Fuel Tax Agreement with Maine and Vermont. The rest of the country is part of the IFTA the International Fuel Tax Agreement. The difference between the two is the minimum weight for trucks to be taxed, with RFTA at 10,000 pounds and IFTA at 26,000 pounds. Maine and Vermont are working in concert to change the RFTA rules to conform with IFTA while maintaining the three state agreement effectively doing as they wish since they out-vote New Hampshire two to one. This bill would allow New Hampshire to drop out of RFTA and join IFTA. Another case is that the state stands to lose approximately \$5 million in taxes. The advantage of joining IFTA would be less paperwork. At this time, New Hampshire has to file two sets of papers, those on taxes solely within RFTA, and those on taxes levied on trucks belonging to IFTA. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

SB 633-FN-A, an act relative to victim restitution and compensation and making an appropriation therefor. Judiciary Committee. Vote: 6-0. Ought to pass with amendment. Senator Gordon for the committee.

5246L

Amendment to SB 633-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to victim restitution and compensation and establishing
an administrative fee on restitution payments to fund the
operations of the division of field services,
department of corrections.

Amend the bill by replacing all after the enacting clause with the following:

1 Claimant Eligibility. RSA 21-M:8-h, I is repealed and reenacted to read as follows:

I.(a) Victims eligible for compensation are:

(1) any person who sustains personal injury as a result of a felony or misdemeanor;

(2) any person who sustains personal injury caused by a person driving under the influence of alcohol or controlled substances.

(b) In the case of a child victim, the claimant, guardian ad litem, advocate or parent may claim compensation in the victim's stead. If the victim is incompetent or in the case of a victim's death as a direct result of the crime, the immediate family of the victim is eligible to claim compensation. In the case of a victim's disability as a direct result of the crime, the victim's legal representative may claim compensation in the victim's stead.

2 Recovery Limitation Raised. Amend RSA 21-M:8-h, V to read as follows:

V. The claimant may be reimbursed for reasonable out-of-pocket expenses, medical expenses, funeral expenses, counseling expenses and lost wages directly resulting from the crime. No reimbursement shall be paid unless the claimant has incurred reimbursable expenses of at least \$100. There shall be a [\$5,000] **\$10,000** ceiling on recovery per claimant per incident. If expenses paid through the victims' assistance program fund are later covered by insurance settlements, civil suit settlements, or restitution, or through any other source, the claimant shall reimburse the fund for the amount of expenses recovered.

3 New Paragraph; Eligible Until Claim Fully Satisfied. Amend RSA 21-M:8-h by inserting after paragraph VII the following new paragraph:

VIII. Notwithstanding any right by a victim to claim restitution or a court order for restitution under RSA 651:62-67, a victim shall be eligible for compensation under this section.

4 Penalty Assessment; Percentage as of 1998. Amend RSA 188-F:31, I to read as follows:

I. Every court shall levy a penalty assessment of \$2 or [17] **20** percent, whichever is greater, on each fine or penalty imposed by the court for a criminal offense, including any fine or penalty for a violation of RSA title XXI or any municipal ordinance, except for a violation of a municipal ordinance relating to motor vehicles unlawfully left or parked. Such penalty assessment shall be divided into the following components, to be designated as follows: 15 percent for the police standards and training council training fund [and]; 2 percent for the victims' assistance fund; **and 3 percent for the benefit of the court modernization fund, to be collected by the clerk of the court.**

5 Distribution of Penalty Assessment, 1998. Amend RSA 188-F:31, IV to read as follows:

IV. The clerk of each court shall collect all penalty assessments and shall transmit the amount collected under paragraph I designated for the police standards and training council training fund to the police standards and training council. The council shall pay over all moneys collected by it under this chapter to the state treasurer for deposit in the police standards and training council training fund. The clerk shall transmit the amount collected under paragraph I for the victims' assistance fund to the state treasurer for deposit in such fund. **The clerk shall**

transmit the remaining amount collected under paragraph I to the state treasurer for deposit in the court modernization fund established under RSA 502-A:37.

6 Word Deleted. Amend RSA 504-A:13, I to read as follows:

I. The court shall establish a supervision fee for probationers, and the parole board shall establish a supervision fee for parolees. The fee shall not be less than \$40 a month, unless waived in whole or in part by the court, board or commissioner, and may be any greater amount as established by the court or board. This fee shall be considered a condition of release, and failure to satisfy this obligation shall be grounds for a violation hearing, unless the probationer or parolee has been found to be indigent and, for that reason, unable to pay the fee. Service charges for collection of fines[, restitution,] and fees, other than supervision fees, shall be established at 10 percent of the funds collected.

7 Conditions for Suspension of Sentence; Restriction Required. RSA 651:20, III is repealed and reenacted to read as follows:

III. As a condition of any suspension of sentence, the court may include restitution to the victim, if provided for under RSA 651:62-67, performance of uncompensated public service as provided in RSA 651:68-70, and such other conditions as the court may determine.

8 New Section; Restitution; Statement of Purpose. Amend RSA 651 by inserting after section 61 the following new section in the subdivision "Restitution":

651:61-a Statement of Purpose.

I. The legislature finds and declares as follows:

(a) A person's right to receive restitution from offenders for economic losses suffered as a result of criminal or delinquent activity shall be secured as provided in this subdivision.

(b) A victim not receiving restitution is unjustly punished for the crimes of others.

(c) Restitution is recognized to have a rehabilitative effect by holding the offender accountable to the victims of the offender's actions.

(d) Restitution is recognized as a deterrent to future criminality and delinquency, thereby providing benefit to society.

(e) Restitution shall succeed in its purposes only to the extent that sufficient financial resources are available for collection and enforcement activity.

II. The legislature does not intend that restitution be contingent upon its serving to rehabilitate an offender, upon an offender's current ability to pay, or upon the availability of other compensation. The legislature intends that the court increase, to the maximum extent feasible, the number of instances in which victims receive restitution. The legislature does not intend the use of restitution to result in preferential treatment for offenders with substantial financial resources.

9 Restitution. RSA 651:62-64 are repealed and reenacted to read as follows:

651:62 Definitions. As used in this subdivision, unless the context otherwise indicates:

I. "Administrative fees" means expenses incurred to collect or attempt to collect restitution from an offender.

II. "Claimant" means a victim, dependent, or any person legally authorized to act on behalf of the victim.

III. "Collateral source" means a source of benefits or advantages for economic loss resulting from a crime, which the victim has received from the victims' assistance fund or from any private or governmental entity that has compensated the victim or the victim's estate.

IV. "Dependent" means any person who was wholly or partially dependent upon the victim for care and support when the crime was committed.

V. "Economic loss" means:

(a) Reasonable charges incurred for reasonably needed products, services and accommodations, including charges for medical, dental and ophthalmic care, rehabilitation, rehabilitative occupational training and other remedial treatment and care including mental health services for the victim or for the victim's spouse and dependents if the crime resulted in the death of the victim;

(b) Loss of earned income by the victim or the victim's dependents;

(c) The value of damaged, destroyed, or lost property;

(d) Expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured or deceased victim would have performed, but not for the crime, for the benefit of the victim or the victim's dependents;

(e) Reasonable expenses related to funeral and burial or crematory services for the decedent victim.

VI. "Offender" means any person convicted of a criminal act.

VII. "Restitution" means moneys or unpaid service provided by the offender to compensate a victim for economic loss, or to compensate any collateral source subrogated to the rights of the victim, which indemnifies a victim for economic loss under this subdivision.

VIII. "Victim" means a person, dependent, organization, governmental agency or political subdivision, business or other entity or claimant who suffers economic loss as a result of any offender's criminal conduct or the good faith effort of any person attempting to prevent or preventing the criminal conduct or apprehending or attempting to apprehend the offender.

651:63 Restitution Required; Restitution Administration Fund Established; Administrative Fees.

I. Upon application by a victim or claimant, the court may enter an order for full restitution against the offender at the time of sentencing. The court shall indicate in its written decision why restitution is not ordered in any case in which restitution was requested but denied. The victim shall be given notice by the prosecution of the victim's right to request restitution and present evidence therefor at the time of sentencing. The victim waives the right to make a restitution claim if the victim fails to present information and evidence to the court as required to determine restitution. The prosecution is solely responsible for presenting the restitution claim to the court. The court shall enter a finding as to the amount of restitution ordered. The court shall not be required to reduce the total obligation as a result of the offender's inability to pay. A restitution order is not a civil judgment against the offender; however, the victim shall be given the ability to pursue execution of the restitution order civilly. Where there are multiple victims, the court shall determine the share of restitution that each shall receive. Restitution may be ordered regardless of whether it will rehabilitate the offender, regardless of the offender's ability to pay, and regardless of the availability of other compensation; however, restitution is not intended to compensate the victim more than once for the same injury.

II. Restitution ordered shall be in addition to any other penalty or fine and may be a condition of probation or parole but should not be the sole condition for probation. Restitution ordered shall also be a condition of any work release program administered under RSA 651:19 or RSA 651:25.

III. The making of a restitution order shall not affect the right of a victim to compensation under RSA 21-M:8-h, except to the extent that restitution is actually collected pursuant to the order. The offender shall reimburse the victim's assistance fund for any payments to the victim pursuant to RSA 21-M:8-h after the restitution order is satisfied. Refused or unclaimed restitution payments shall be made to the victim's assistance fund.

IV. The court's determination of the amount of restitution shall not be admissible as evidence in a civil action. The court shall reduce any civil damage awards by restitution ordered. Restitution orders shall survive bankruptcy.

V. The court shall add 15 percent to the total restitution payment as an administrative fee to be paid by the offender. Administrative fees shall be continually appropriated to a special fund for the division of field services, department of corrections to maximize restitution collections, directly or through agents or contractors selected by the department. Administrative fees shall be paid by the offender to the department in addition to and when each restitution payment is made.

VI. Restitution, administrative fines and fees, dues and other fees collected shall be allocated on a pro-rata basis when payments are insufficient to cover the full amount due for each of these balances.

VII. The division of field services, department of corrections, shall have the authority to hire temporary personnel and to procure equipment as may be necessary to implement this chapter.

651:64 Time and Method of Restitution.

I. The time and method of restitution payments or performance of restitution services shall be specified by the department of corrections. Monetary restitution may be by lump sum, or by periodic installments in any amounts. The court shall not be required to reduce the total obligation as a result of the offender's inability to pay. The offender shall bear the burden of demonstrating lack of ability to pay. Restitution shall be made to any collateral source or subrogee, if authorized by that source and after the victim's restitution claim has been satisfied. Restitution shall be a continuing obligation of the offender's estate and shall inure to the benefit of the victim's estate only to the extent that no indebtedness shall pass to any heir of the offender's estate. Restitution shall be paid by the offender to the department of corrections for disbursement to the victim. Monetary restitution shall not bear interest. Determinations made by the department of corrections pursuant to this paragraph may be appealed to the court imposing the restitution order by either the offender or victim, the burden of proof being imposed upon the appellant.

II. The department of corrections shall have continuing authority over the offender for purposes of enforcing restitution until the restitution order is satisfied.

III. Notwithstanding any other law to the contrary, the department of corrections shall be given access to all state databases and records and access to the offender's bank and financial records for the purposes of monitoring offender financial status. The department shall adhere to all confidentiality provisions applying to any such data. The department may garnish the offender's wages for the purpose of ensuring payment of victim restitution. Use of collection devices available under civil practice shall be the responsibility of the victim. The commissioner of the department of corrections or designee shall have the authority and discretion to appear without counsel in any court proceeding relating to this chapter.

10 New Subparagraph; Money Deposit Designated. Amend RSA 6:12, I by inserting after subparagraph (III) the following new subparagraph: (mmm) Moneys received pursuant to RSA 651-63, V shall be deposited into an account to fund the operating appropriation of the division of field services, department of corrections.

11 Applicability. The court shall have discretion to phase in implementation of sections 6-10 of this act to the extent that the court may select categories of criminal offenses to which the act shall be applied; however, all offenses shall be included in such implementation by January 1, 1999. The court shall file with the senate president, the speaker of the house, the senate judiciary and family law committee, and the house judiciary and family law committee detailed reports on the progress of the implementation including recommendations from the court for improvement or changes in the law. Such reports shall be filed no less than annually through December 31, 1998.

12 Repeal. The following are repealed:

I. RSA 21-M:8-1, I, relative to rehabilitation as a purpose for restitution.

II. RSA 502-A:37, III relative to the lapse of the court modernization fund.

III. 1989, 408:82, II relative to the prospective repeal of RSA 6:12, I(ff), relating to the court modernization fund.

IV. 1989, 408:82, IV relative to the prospective repeal of RSA 502-A:37, the court modernization fund.

13 Effective Date.

I. Sections 4 and 5 of this act shall take effect July 1, 1998 at 12:02 a.m.

II. The remainder of this act shall take effect July 1, 1996.

AMENDED ANALYSIS

This bill:

I. Makes more people eligible for restitution and increases the amount which may be awarded to victims.

II. Prospectively changes the distribution of moneys from the victims' assistance fund.

III. Changes the procedure by which restitution is awarded, collected and distributed.

IV. Establishes a special fund consisting of administrative fees paid on restitution payments, which shall be used to fund the operations of the division of field services, department of corrections.

V. Repeals prospective repeals relative to the court modernization fund.

VI. Gives the court discretion to phase in implementation of this act and requires the court to file reports with the legislature on the progress of implementation.

SENATOR GORDON: This bill requires the New Hampshire Courts to order restitution for economic damages sustained by victims in all types of crimes, unless the court or judge makes a specific finding as to why such an award would not be appropriate. This avoids having victim restitution negotiated away during the plea bargaining process. This would apply to all types of crimes. It would also makes changes in the Victim Assistance Fund to make it more responsive to the victims needs. The bill also establishes a revolving fund to fund a collection process or a collection procedure whereby restitution may be collected by the Department of Corrections on behalf of victims. This bill includes an amendment, and the amendment knowing that this bill may have a traumatic effect if it were implemented all at once, allows the Department of Cor-

rections to implement the bill in stages, at its discretion, but prior to January 1, 1999. The committee urges your adoption of the amendment and of SB 633. Thank you.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 648-FN-LOCAL, an act relative to child support. Judiciary Committee. Vote: 4-2. Ought to pass with amendment. Senator Wheeler for the committee.

5195L

Amendment to SB 648-FN-LOCAL

Amend the bill by replacing all after the enacting clause with the following:

1 Parental Intentional Interference With Custody or Visitation; Grounds for Modification. RSA 458:17, V is repealed and reenacted to read as follows:

V. Intentional interference by a parent who has permanent primary physical or permanent joint or shared physical custody with the visitation or custodial rights of the other parent shall be a basis for modifying physical custody without the necessity of showing harm to the child if the court finds that a change of physical custody would be in accordance with the best interests of the child. Except as provided in this paragraph, nothing in this section shall be construed to alter the standard for modification of a custody decree affecting physical custody of the child or children.

2 New Paragraph; Expedited Hearing on Issues of Interference With Rights of Physical Custody, Visitation, or Nonpayment of Child Support. Amend RSA 458:17 by inserting after paragraph XIV the following new paragraph:

XV. Any motion for contempt of a court order regarding physical custody or visitation or nonpayment of child support, if filed by a parent who has custodial or visitation rights pursuant to the court order, shall be reviewed by the court within 30 days.

3 New Paragraph; Parental Involvement Encouraged. Amend RSA 458-C:1 by inserting after paragraph III the following new paragraph:

IV. Involvement of both parents in their children's lives should be encouraged. Child support obligations shall be adjusted to reflect the financial impact on a non-custodial parent's household expenses when the children spend a significant amount of time in that parent's household.

4 Definition of "Adjusted Gross Income;" Gross Income Less Actual Full Amount of Medical Insurance. Amend RSA 458-C:2, I to read as follows:

I. "Adjusted gross income" means gross income, less:

(a) Court-ordered or administratively ordered support actually paid to others, for adults or children[;].

(b) [Fifty percent of] The actual amount paid for medical insurance coverage for the minor children of the parties[; and].

(c) Mandatory, not discretionary, retirement contributions.

(d) Actual work-related child care expenses up to no more than an annual total of \$5,000 for one child, \$9,000 for 2 children, and \$12,000 for 3 or more children.

(e) Fifty percent of actual self-employment tax paid.

(f) Actual state income taxes paid.

5 Definition of "Minimum Support Order," Exception Added; Definition of "Net Income," State Income Tax Deleted and Medicare Added. Amend RSA 458-C:2, V and VI to read as follows:

V. "Minimum support order" means an order of support equal to \$50 per month, *except where custodial adjustments produce an order of support for a lower amount.*

VI. "Net income" means the parents' combined adjusted gross income less [state income taxes actually paid, and] standard deductions published and adjusted on an annual basis by the department of health and human services, for:

(a) Federal income tax[; and] *which amount shall be standardized and shall be based on the amount an employer withholds from a single person's monthly income who has claimed a withholding allowance for 2 dependents.*

(b) F.I.C.A. *which shall be calculated based on the employee's contribution of the social security tax and the employee's portion of the actual medicare tax paid.*

6 New Paragraph; "Total Support Obligation" Changed to "Basic Support Obligation". Amend RSA 458-C:2 by inserting after paragraph I the following new paragraph:

I-a. "Basic support obligation" means net income multiplied by the appropriate percentage derived from RSA 458-C:3, I and allocated between the parents in proportion to their respective incomes.

7 New Paragraph; "Overnights" Defined. Amend RSA 458-C:2 by inserting after paragraph VIII the following new paragraph:

VIII-a. "Overnights" means the court-ordered overnight periods that the children stay at each parent's home, except to the extent the court in its reasonable discretion finds otherwise in order to maintain fairness and equity. All findings of the court shall be in writing.

8 Child Support Formula Revised. RSA 458-C:3 is repealed and reenacted to read as follows:

458-C:3 Child Support Formula. The amount of each parent's child support obligation shall be calculated as follows:

I. The basic support obligation shall be derived by subtracting from the father and mother's combined adjusted gross income the amount of the standard deductions for federal income tax and FICA/Medicare withholding, and multiplying that amount by the following appropriate percentage based on the number of children for whom a duty of support is owed in accordance with the child support guideline calculation table adjusted and published on an annual basis by the office of child support enforcement services:

Number of Children	Percentage of Net Income
1	25 percent
2	33 percent
3	40 percent
4 or more	45 percent

II. The basic support obligation shall be divided between the parents in proportion to their respective incomes to determine the basic parental support obligation.

III. If the court has ordered overnight physical custodial periods or visitation, each parent's support obligation shall be computed as follows:

(a)(1) Multiply the basic support obligation of each parent by 1.5 to determine the shared custody basic obligation.

(2) Determine the percentage of time the child spends with each parent by dividing the number of court-ordered overnights with each parent by 365.

(b) Each parent's child support obligation shall be equal to the amount determined for that parent in subparagraph (a)(1) multiplied by the percentage of time the child will be in the custody of the other parent as determined in subparagraph (a)(2).

(c) The parent with the larger obligation (the obligor) shall pay to the parent with the smaller obligation an amount equal to the difference between the 2 support obligations as determined in subparagraph (b). The parent with the smaller support obligation shall not be required to make support payments.

(d) If the amount of support to be paid by the obligor under subparagraph (c) exceeds the obligor's basic support amount, the support order shall equal the obligor's basic support obligation.

IV. Self-support reserve and minimum child support obligation.

(a) If the obligor parent's gross income is less than the self-support reserve and the court has found that the obligor is not voluntarily unemployed or voluntarily underemployed, the court shall order the child support obligation in the amount of a minimum support order.

(b) If the obligor parent's gross income is greater than the self-support reserve but payment of the order as calculated under this chapter would reduce the obligor parent's income below the self-support reserve, the obligor parent's share of the total support obligation shall be presumed to be the difference between the self-support reserve and that parent's adjusted gross income, but in any event shall be no less than the amount of a minimum support order.

V. All child support obligations calculated pursuant to this chapter shall be rounded to the nearest whole dollar.

9 "Natural or Adopted Children" Added. Amend RSA 458-C:5, I(c) to read as follows:

(c) The economic consequences of the presence of stepparents [or], stepchildren, *or natural or adopted children*;

10 Mediated Child Support Agreements and Educational Expenses Added. Amend RSA 458-C:5, I(h) and (i) to read as follows:

(h) Split [or shared] custody arrangements;

(i) Child support agreements mediated by a marital mediator certified under RSA 328-C;

(j) The economic consequences to either party of voluntarily providing for the educational expenses of a child;

[[i)] *(k)* Other special circumstances found by the court to avoid an unreasonably low or confiscatory support order, taking all relevant circumstances into consideration.

11 Repeal. The following are repealed:

I. RSA 458-C:2, XI, relative to the definition of total support obligations.

II. RSA 458-C:4, III, relative to consideration of either party's stepchildren when applying the child support guidelines.

12 Effective Date. This act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill revises certain provisions concerning child support, custodial rights, and visitation.

SENATOR WHEELER: This bill as amended, is a result of a two-year long study committee on the issue of child support. The bill rewrites the child support guidelines. On the child support study committee, was Judge Hollman, Marital Master Kelly and Senator Podles. The bill attempts to do two things, it ties the amount of time a non-custodial par-

ent has with their children to the amount of child support paid after a certain point. We will go over the graph that is being handed out to explain that. It also gives some parity between interference with visitation and nonpayment of child support. The bill would require the courts, within 30 days, to review any motions brought forward by the parents, for interference with visitation and with nonpayment of child support. Because of many people that feel that when a custodial parent intentionally does not let the non-custodial parent have their court ordered visitation, that inspires people not to pay their child support. So the committee believes that this will help child support collections as well as bring some parity to the situation. If you would turn to the graph that is being handed out, on page one, look down at the bottom where it says "father and mother," and we'll assume for this graph purposes, that father is non-custodial and mother is custodial parent. When mother and father have an equal income, the father's child support will be reduced after he has the children for 62 court ordered overnight visits. His child support will go down. After he has them for a month, over 62 days, his child support is reduced by \$100. That is part of the formula. If you go to page 2, we have a different scenario here where father makes \$3,000 a month and mother still makes \$1,500 a month. The child support ordered was much, much higher, up in the \$650-\$700 range, because his income is higher under the new formula, but, again, it starts to go down a little later, because his income is higher, at about 77 days. Under a third scenario, on the third graph, you will see that father's income is three times higher than mother's and his child support is over a thousand dollars a month and doesn't start to go down until after 91 days. But in any case, for the first time a non-custodial parent will be financially rewarded for spending time with their children. The Judiciary Committee and the Child Support Committee feel that this is in the best interests of the child, with this new child support guidelines. We urge your support of this bill.

SENATOR COHEN: I rise in opposition to this bill. I recognize that a lot of work was put into it. There are some really good intentions, nothing but the best intentions of the people that put it together; however, SB 648 as amended, is still a deeply flawed piece of legislation which could very well hurt children in families. There are a number of problems with it. The biggest overall problem is mixing finances with care of children. They are two separate issues, the parents' relationships to their kids, mixing the two together is dangerous. Just a few points, the first one, the bill would treat work-related child care expenses unfairly. The more a custodial parent pays for day-care, the less child support that person will receive for their children, because the bill would change the treatment of work-related child care costs so as to reduce the income figure, which is used to set the support obligation under the child support guidelines. So, for example, a custodial mom or dad with two kids, paying \$100 a week for day-care costs, would lose \$50 to \$90 or more, per month in child support, under this formula due solely to the way that those day-care costs are factored in. Another point, reducing support based on more overnight business with the non-custodial parent without determining whether expenses for the custodial parent are reduced, will hurt children and increase litigation. It is certainly important to encourage involvement in both parents in their children's lives, but we should not impoverish the primary care household to do this. We should not adopt a rent-a-kid law which will encourage litigation over visitation. It's really about the dollars. If a parent, for example, has a \$1,400 a month in gross in-

come and the custodial parent pays \$100 a week in day-care costs for the two children, the support order, under today's law, would be \$433 a month. Under the proposed formula of this bill the custodial parent would get \$58 less per month in the beginning, just because of the different way day-care is factored in. The household will lose an additional \$80 a month, if instead of visits every other weekend, the children spend every weekend with the non-custodial parent. So in this example, which is not atypical, child support would go down significantly, simply because the children spend an extra two weekends per month with the other parent. There is no economic justification for dramatically reducing support where few actual costs are shifted. In general, there is a real question of whether it is a wise policy to further enmesh the separate issues of finances and parents' relationships with their kids. They are two separate issues. Do we want custodial parents litigating to seek to limit visits with the other parent because of support concerns? Do we want parents fighting about whether the kids will come over Friday night or Saturday morning, not because of how this might affect the children, but because of hundreds of dollars a year are at stake? This is not right. This is not in the best interests of the kids. Also, the bill could hurt children by reopening custody fights whenever one parent claims interference of visitation or custody. The bill would allow a parent who has a minor visitation dispute to threaten to take the children away by seeking to change a custody order. This threat would be a powerful and dangerous tool in the hands of an abusive partner to seek control over the other parent. The primary focus of a custody proceeding is not the parents' interests, but the best interests of the children. There has got to be a better way to aid parents who feel that their visitation and custody rights have been violated by the other parent than to disrupt the children's security and stability in another custody battle. The bill, as written, will increase litigation. It allows parents who can't get along to run to the court every time there is a glitch in visitation. This is per se harm to a child. The courts now have the ability to modify child custody. We should leave that power with the courts at a standard as it is.

SENATOR STAWASZ: Senator Cohen, I am assuming that you are aware that the courts are in favor of this bill and that currently judges have to follow a formula and don't have any latitude in determining some of those issues? I appreciate your concern that we might be flooded with additional lawsuits, but don't you think that the judges should have the latitude to include all of the factors of the family, including finance in their adjudication of a dispute before them or don't you trust them?

SENATOR COHEN: Senator Stawasz, to say that the courts are in favor of this, as you know, is a substantial exaggeration. There have been some court support for this, some judge support, but not all courts are supportive of this. Secondly, there are other ways to modify the situation than through this, which really ties the hands of the courts.

SENATOR PIGNATELLI: I was one of the two people who voted against this bill in committee, so the Judiciary Committee doesn't support this as a whole. There were two of us, Senator Cohen and myself, who voted against it. We felt very strongly about voting against it. Sometimes you vote against something because you want to make a point or because you don't like one little part of it, but we were presented with an amendment yesterday, which some of us saw for the first time, and we had a very little amount of time to look through this amendment and to ask questions. Some of us had a lot of concerns, and I was one of them. I had this amend-

ment for about ten minutes and my amendment is already marked up. Every single page is marked up with about fifteen or twenty different concerns and questions. So I definitely am opposed to this bill. It makes a complicated issue that much more complicated. About February 16, I received a letter from someone. As it turns out she is not a constituent of mine, she is a constituent of Senator Larsen's, but she used to be a friend of mine when she was in Nashua. I would like to read a few excerpts of her letter about this bill and how she thinks it will not only affect her, but it will affect a lot of custodial parents. These are direct quotes from a woman named Cindy Gaston. "My understanding is that the rationale behind this is that the non-custodial parents incur expenses when a child is with them. Any expenses incurred by a non-custodial parent are minimal and more than offset by the unexpected expenses the custodial parent assumes all of the time. Look at your own situation. How many times a month do they request money for some school field trip, a fund raising event or even a trip to the movies with their friends? In my situation, right now, these expenses are for SAT tests, college application fees and gas to view colleges and meet with admissions staff, expenses my ex-husband does not or will not incur, and which were not considered when the amount of child support was determined. For people with younger children, it could be something as simple as a child losing his only winter jacket during the month of January. Certainly they must have another, yet to the custodial parent, this expense could not have come at a worse time. If it also happens to be during a month when the child support is reduced, it could be devastating. The expense a non-custodial parent incurs is certainly no more than the expenses you incur when your child has a friend come and spend the night with him or her. Would you charge the child's parents for the cost of this? I doubt it. If this bill becomes law, it is my opinion, that it will cause an unfair burden on the custodial parent. As the custodial parent, I must provide a place for my child, whether he or she is with me or not. In order to do this, I need to know exactly how much income that I will have available every month. I cannot tell the bank or my landlord that I didn't have my child for one week, so I didn't use their bedroom; therefore my mortgage or my rent should be reduced. Because the children are only with him every other weekend, my husband can live in a two bedroom place and let one of them sleep on the couch in the living room. This is a luxury, I, as a custodial parent, don't have. With a child of each sex, I must provide separate bedrooms for each of them, whether they are with me or not. Statistics show that after divorce, the standard of living for women, who are usually the custodial parents, diminishes. If this bill is passed, it will take an already impoverished group of people, and make things worse for them and worse for their children." So I oppose this bill and I want to go on record as voting against it. Thank you.

SENATOR WHEELER: Senator Pignatelli, would you agree that under this bill, in Cindy's situation, where her ex only has the children every other weekend, that nothing changes for Cindy?

SENATOR PIGNATELLI: Well it changes . . . Well, I didn't just read this letter on Cindy's behalf, and I don't believe in introducing legislation or making a vote on one person's behalf, but I believe that her case represents a lot of cases. I also believe that if the non-custodial parent has a child between four and seven or between four and nine at night, I think that that non-custodial parent's lawyer, will encourage them to keep that child overnight in as many cases as he or she can to lower the child sup-

port. Having said that, Senator Wheeler, I do believe that there has to be some equity, but I think that at 60 days, that is way too low. I would be willing - of course, we don't have the time - but I would be willing to think about a level in the neighborhood of 35 percent, and then I think it would make a difference to do that, but at 60 days, no.

SENATOR WHEELER: My second question is, regarding your accusations about the process, isn't it true that we had a discussion about what policy we wanted in the bill and out of the bill before we went on Senate vacation? Furthermore, the part that you are discussing about the formula, nothing has changed from the original bill in the formula, since the original bill.

SENATOR PIGNATELLI: I understand what you are saying, but it was a very comprehensive and confusing bill. We were asked to look at a document that was this big, with charts that go on and on, and asked to understand this, and to vote on this bill, after just a two to two-and-a-half hour hearing. I think that's too much to expect of us. I do agree that parts of the bill, the criminalization, was agreed upon before you offered your amendment, but I don't believe that we had an agreement about the amount of days that a non-custodial parent would have a child, and the reduction in the child support.

SENATOR WHEELER: But my question is, nothing has changed in the amount of days since the original bill which we have had for at least a month, including the big thick pink booklet, isn't that true?

SENATOR PIGNATELLI: I wasn't in favor of that even when we heard it originally. Also, I forgot to mention that even though it is hard to tie right-to-work to this bill, Senator Wheeler has managed to do it, because as part of the deductions in child support payments, we have taken out the deduction for mandatory union dues. Right now you can deduct mandatory union dues from your income before your child support is figured out. In this amendment, we no longer can do that. So, congratulations on your union busting in this bill, Senator Wheeler.

SENATOR GORDON: I do support the bill. I support it, somewhat reluctantly, because the child support guidelines, for those who are aware of the child support guidelines, are complicated to begin with. But they are not always equitable. This bill didn't come about as somebody's whim. It is not somebody's agenda to provide more benefits to non-custodial parents. This bill comes about as a two-year study committee created by the legislature, which took testimony in hearings across the state, evaluated the circumstances, and made a recommendation, in the form of this bill, that the system needs to be changed. The testimony that we heard in the two-and-a-half hours that Senator Pignatelli talked about, didn't just come from people who have special interests. It didn't just come from people who want to villainize non-custodial parents or villainize custodial parents. It came from Judge Hollman and from the court system itself. It came from the marital masters who said that we need to bring more equity into the system. That is what this is about. It is bringing more equity and fairness into the system. There is no question that there will be certain circumstances where people will get less child support than they are right now. But the reason that they will be getting less child support than they are getting right now, is because the other parent is more involved with their children. That's something that we want to encourage. We want non-custodial parents to be involved with their children. Why should a non-custodial parent who has moved out-of-state to

New Jersey, and never sees his or her children, pay the same amount as somebody who lives in this state and has them over to their house 100 nights a year? It makes no sense at all. We want to provide incentives. If this bill came in from a special interest trying to change the formula, I would be very reluctant to go along with it; but it doesn't. It is supported by the court system itself, who says this is a good bill. The other two points that I would like to make in response to Senator Cohen is, one, any parent today, at any time, can bring in a petition into court to bring forward and modify their divorce decree and argue to change custody. That is a right that is provided to everybody. This bill will not affect that at all. The second thing is that Senator Cohen indicated that he believes, that what this is going to do is create a relationship between money and custody. I tell you here, that if anybody thinks that isn't what is going on in the courts today, all of the time, then they are very naive. That happens today, and the fact that that may happen after this bill has passed, will make things no different than it is today.

SENATOR SHAHEEN: Senator Gordon, I have a couple of questions and I am not sure that you can answer the first, but I think it may be related to the second. I am still trying to figure out what these charts are suppose to show. Can you answer that?

SENATOR GORDON: I would be happy to. I did not prepare the charts, and I can't be sure, Senator Shaheen, that I can represent to you what those charts represent. I know that perhaps Senator Wheeler would be better prepared to do that. I do know, that under the terms of the bill, a non-custodial parent, a person, in essence, who is generally paying the child support, that parent would receive a reduction in the amount that they are paying after the child spends 60 or more nights at their home. I believe that chart is intended to reflect the fact that there would be, depending on the amount of time spent with a non-custodial parent, a reduction in the amount of support.

SENATOR SHAHEEN: Okay, I guess that I am still having trouble figuring out how they show that. My second question is really . . . I don't disagree with you that there are inequities in the way support payments may be authorized right now and that this is an area that needs to be looked at, but I thought I heard you say that you felt that one outcome . . . TAPE CHANGE . . . the non-custodial parent and their child's welfare, and I guess I'm a little troubled by that. Is that, in fact, what you are suggesting and do you believe that is going to be an outcome of the bill, and do we really think that a parent's interest in their child is based on the amount of money that they have to spend for them?

SENATOR GORDON: Senator Shaheen, I don't by any means believe that a person's or a parent's interest in their child should be related strictly to the financial matters. The fact is, I do believe that if a parent is involved with their children, takes an interest in their children, they should be rewarded for that interest.

SENATOR KEOUGH: Senator Gordon, my question relates to the effect this legislation may have in the determination of custodial or visitation rights at the outset of a divorce. I don't need to tell you as an attorney that sometimes there is agreement as to what those rights ought to be. Oftentimes there isn't agreement. While the bill seems to advance a good policy goal in those situations where the custodial or visitation rights have all been worked out - and now we are talking about what is fair in terms of economic payments - what I liked is how you managed to as-

sure yourself that we are not going to have a situation where there would otherwise be cooperation in determining visitation rights or custodial rights for the family, but now, because of this law, in the likelihood that there may be an adverse financial impact to a cooperative arrangement, that we actually are working at cross purposes?

SENATOR GORDON: The fact is, as I indicated earlier, there already is a relationship, a financial relationship, between custody and child support. I swore when I became a lawyer I would never do a divorce or a domestic matter. Unfortunately, I've done a few, enough to know how the system works. The fact is, right now we have people fighting in court over who is going to have custody of the children, who is going to be the custodial parent and who is going to be the non-custodial parent. Terrible battles. Battles that tear children apart. In a system like this, where a non-custodial parent may receive some relief, perhaps we can relieve those types of traumatic battles in the courts. As a non-custodial parent knows, it's not one way or the other in those circumstances. The ultimate decision in what is going to be awarded, as far as custody and support, is going to be made in the context of the court, an objective third party, the judge, and in most cases where there are children involved, with another objective third party, which is a guardian ad litem. I do not believe that the courts are going to be awarding custody in a manner that would be adverse to the best interests of the children. If your concern is that you are afraid that there will be custodial awards that will end up not being in the best interests of the children because of the financial issues, I don't believe that that's going to happen because we do have guardian ad litem in the courts to intercede and make sure that the orders that are issued by the court are appropriate.

SENATOR KEOUGH: Isn't it possible that a father who is fighting for the right to spend more time with his child or to visit his child more frequently, may have the deck stacked further against him or may be in for a bigger fight because the mother of that child is going to suffer an adverse financial consequence if she agrees?

SENATOR GORDON: Could be possible.

SENATOR KEOUGH: Thank you.

SENATOR PODLES: Senator Gordon has done a super job of explaining this. But you need to know how it all began. I have been with it for a long, long time. For years we were asked to do something about child support; we were asked to do something about visitation rights, because there were a lot of people out there that were having a lot of problems. In fact, there were several of us that were threatened. We had telephone calls at midnight and somebody would call and leave the line open for a long time. They did it at the same time every night, at twelve o'clock. A bill would not solve the problem and we knew that. So what I proceeded to do, was to come up with a bill to establish a committee to study this problem of child support. The bill passed, and there were people appointed to this committee. We have the following people that were appointed, Judge Hollman, who is a superior court judge and has been for eight years and he deals with these kinds of problems. He was on the committee. The Honorable Pamela Kelly has been a marital master for quite some time - I don't know how many years. This is all she does. She deals with these kinds of cases. I was also appointed to the committee. We had Representative Lionel Johnson, who was the vice chairman of this committee. We had Michael Morello, who is a representative. We had

an attorney, Eleanor Dahar. She was the governor's representative. We had Catherine Keane, who is an attorney and also is in the Office of Child Support Enforcement. We had another woman who is an attorney and she was in the Office of Child Support Enforcement also. We also had a custodial parent on the committee to give us some input. We also had a non-custodial parent. In fact, it is David Friedline who is upstairs, and he used to bring a computer to the committee to work with us. We also had another non-custodial parent. Some of these members have gone around the state and have listened to problems. This is the way that we had started. They would go in their own cars, use their own money, buy paper. Since we didn't have any kind of appropriation to the committee, we had to do all of this on our own. They had gone to the northern part of the state to get information, came back, and this is the way we started our work. I just cannot tell you how much these people worked. Judge Hollman used to do his cases in court and come in at night. They used to work there until 7 or 7:30 at night. So this had a lot of study. We had a public hearing that lasted almost three hours. Everybody in the room had a chance to speak. Some of our members didn't even have lunch. They worked through the lunch hour. Yesterday we had an executive session and that lasted for one hour. I think everybody had an opportunity to ask questions to be able to understand this. We had people there who explained it to us and I can't believe what is going on here this morning. Senators, I would recommend that you pass this bill. I don't know what else to do about child support and I think it's one of the best. If there is anything wrong, we can come back later and fix it. But this is the best we could do and we would like to put this bill out.

SENATOR RUSSMAN: Just as a matter of background, in the past 23-plus years, I have done over a thousand divorce cases and it continues to be a major part of my practice. I guess that the way I see this is that the reality of it is that when one family living together and they are having a hard time making it and you separate the two people in a divorce situation, there isn't enough money to go around. I think that is a given; you have to understand that. I think that the issue here is one of equity and good sense and I think that the bill is a reasonable bill to accomplish that. I am not concerned, in my practice, about the idea of are these kids going to be fought over for visitation and so on and so forth. I think that the courts recognize that kids need routines; they can't be bounced back and forth from one place to another willy nilly. If it means that perhaps on Monday holidays that the father is going to spend time with the child so the child stays there Sunday night, I think that is reasonable. If it means that the more complete summer vacation that the father has to spend with his child, I certainly think that is appropriate. I represent about 50 percent men and about 50 percent women in these cases that I deal with. I think that it is also important to know on the standard of custody that there is a case called *Perreault v. Perreault* that set the standard for unmodification of custody, which really deals with . . . the proof essentially is that you have to prove that there is imminent danger of harm to the child in order to change or modify custody in that type of manner. It is not going to be over visitation that you are going to be modifying custody, and certainly in the early stages of what they call a temporary hearing, which usually takes place two or three weeks after the divorce petition is served, the judge does make an initial look at custody and make an initial finding and usually it does go to the primary caretaker in almost every instance, unless there is some situation of

abuse or criminal background or so on and so forth. I am content with the bill. I think it is reasonable under the circumstances. I don't see any reason that it shouldn't be passed on to the House.

Senator Blaisdell moved the question.

Adopted.

Amendment adopted.

Ordered to third reading.

Senator Pignatelli in opposition to SB 648.

SB 584-LOCAL, an act requiring that bond issues be voted on by official ballot and restricting reconsideration of votes on bond issues. Public Affairs Committee. Vote: 6-0. Ought to pass with amendment. Senator Stawasz for the committee.

5240L

Amendment to SB 584-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

allowing bond issues to be voted on by official ballot and restricting reconsideration of votes on bond issues.

Amend RSA 39:3-d, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Articles concerning the issuance of bonds or notes [shall not] *may* be placed on the official ballot *at the discretion of the legislative body*.

Amend RSA 40:10-a, I as inserted by section 2 of the bill by replacing it with the following:

I. An annual or special meeting held by any local political subdivision as defined by RSA 40:12 shall restrict reconsideration of all votes on bond issues, except for the correction of technical faults, considered during a meeting or any adjourned session of such a meeting. No vote or article which has been restricted under this section shall be reconsidered during that meeting or any adjourned session of such meeting, except as provided in paragraph II.

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows bond issues to be voted on by official ballot and restricts reconsideration of votes on bond issues.

SENATOR STAWASZ: What this would do is that if people are going to be voting on a bond issue by the ballot, this basically says that they can't reconsider that unless they have a technical fault with the warrant itself. The purpose being that you needed a two-thirds vote to pass that bond, but you only need 50 percent, plus one, to ask for reconsideration. The problem seems to be that someone will get up and say that they voted with the prevailing side and that they want to reconsider. If it was done by secret ballot, you have no way of knowing if they voted with the prevailing side. In this case, the protection of the minority, the two-thirds protection requirement of passing that bond issue is thwarted very easily. So we urge the motion of ought to pass.

SENATOR COLANTUONO: I support the intent of the bill, I just have a question about the mechanics of how the first part of the bill is going to work. It says that the articles concerning issues of bonds and notes,

may be placed on the official ballot at the discretion of the legislative body." As I understand it, the legislative body is the meeting at the district school district or the town when they come together for their meetings. How do they get an item on the official ballot, to be vote on, for bond issues, if they don't meet until around the same time as the official ballot vote? Our school district is going to meet Saturday and our voting is Tuesday. The official ballots are already printed and our town meeting doesn't occur until next Saturday, exactly TAPE INAUDIBLE does this mean that in one year, you have to vote on putting on the official ballot and it doesn't go on it until the next year? How exactly is this going to be accomplished?

SENATOR STAWASZ: I am not sure, Senator Colantuono, how it will be done. I mean, there are dates and times established for submission of articles prior to the meeting because of public hearing requirements prior to the meeting. This doesn't address how you would get something on the warrant. It addresses the procedure to reconsider it after it has been dealt with on the warrant. I believe your question was looking to see how you would know in advance how to get them on. The bond articles have many pre-meeting requirements of dates and procedures to follow.

SENATOR COLANTUONO: Could I ask anyone in the committee if they can answer that question?

Recess.

Out of recess.

Senator Barnes moved to have **SB 584-LOCAL**, an act requiring that bond issues be voted on by official ballot and restricting reconsideration of votes on bond issues, laid on the table.

Adopted.

LAI D ON THE TABLE

SB 584-LOCAL, an act requiring that bond issues be voted on by official ballot and restricting reconsideration of votes on bond issues.

SB 516, an act relative to dwellings with lead paint. Public Institutions, Health and Human Services Committee. Vote: 6-1. Ought to pass with amendment. Senator Wheeler for the committee.

5216L

Amendment to SB 516

Amend the bill by replacing section 1 with the following:

1 New Section; Lead Paint Exposure. Amend RSA 354-A by inserting after section 14 the following new section:

354-A:14-a Lead Paint Exposure in Dwellings or Dwelling Units. Notwithstanding any provision of law to the contrary, nothing in this chapter shall require a person to rent a dwelling or dwelling unit, when the person knows such dwelling or dwelling unit is to be occupied by a child 6 years of age or less and the dwelling or dwelling unit may have a lead exposure hazard present.

AMENDED ANALYSIS

This bill makes it clear that the law regulating discrimination in housing does not require a person to rent a dwelling or dwelling unit which may have a lead exposure hazard present if such dwelling or unit is to be occupied by a child 6 years of age or less.

SENATOR WHEELER: SB 516 says that you do not have to rent a rental unit to children under the age of six, those children that are at risk of lead paint poisoning in a unit that has a lead hazard exposure. It is a companion bill to SB 663. If SB 663 makes it all of the way through the process, SB 516 will no longer be needed.

Recess.

Senator Barnes in the Chair.

Amendment adopted.

Ordered to third reading.

SB 660, an act relative to the central registry in the department of health and human services. Public Institutions, Health & Human Services Committee. Vote: 5-2. Interim study. Senator Wheeler for the committee.

SENATOR WHEELER: SB 660 is one side of the result of a study committee on central registry on going debate of issues regarding the central registry in the Department of Health and Human Services, DCYF. The bill is only sponsored by two members of the committee, and the members are still very split as well as the Public Institutions, Health and Human Services Committee, although the bill does have some merit, instead of outright killing it, we suggest Interim Study for those portions of the bill that have merit and we would ask for your support. Thank you.

Recess.

Out of recess.

SENATOR J. KING: Let me tell you about this bill. I have lived with it for the last four years. Some of the people that we are putting on the committee were on the same committee. I don't understand it, but there must be a reason for it. I don't understand what it is. Let me read you some of the minutes from the meeting. We were talking about the bill at the study committee, and by the way, there were people from the Health and Human Services and myself, Senator Wheeler and also a couple of people from the House. It was sort of an agreement after three years. We decided this is what we are going to do. TAPE INAUDIBLE and Senator Wheeler says, "I mean, I think that this is a pretty much something, that we could take to legislative services and get drafted." and then I, John King said, "Yeah, I think so." then there was a tape change. I don't know what was in between there. But basically, that was what it was. Everyone seemed to be in agreement that it was a good bill. Why is it coming up the last day? It was known back in November of last year. Why is this bill coming in now? Then we were told, by Senator Wheeler, that he wanted to put an amendment on it. I told him to go ahead and put one in, and basically, if there are some things that you want to change and it isn't going to change much, fine, I will go along with it, and the amendment never appeared. Last night I received a call at home about 5:15-5:30 telling me that they were execing on this. I didn't even know that they were execing. I knew that Capital Budget was, I was there. I knew that Senator Rubens was having an executive session and I was there. They call and all of a sudden we get a vote of 5-2 and it is not a partisan issue, I don't think. Now if there was going to be an amendment on it, why couldn't they have done that? They put one on every other darn bill that comes through here. My feeling would be, that you people here . . . this is a good bill and at least give the House, the members that are on that committee, a chance to work on it over there, if they want to change it and there is something that has to happen, we here can go over and

make recommendations. I, personally, think that it is a good bill. As I said, I spent three and one-half years working on the thing and then they come up and say they want to send it to a Senate Interim Study, that is an insult to anyone's intelligence. Let us make this ought to pass and get it over to the House where it belongs or let us defeat this motion and then come back with the ought to pass motion, please?

SENATOR LOVEJOY: Senator King, TAPE INAUDIBLE.

SENATOR J. KING: The unfounded one was the one that they keep for their records only. The founded cases are kept there for up to seven years or longer if you decide. The unfounded cases, the cases that if they go and talk to you or to me and then they found out that there is nothing there, then they get rid of them right away, but they keep what they call a record of the kind of work that they have done, the people that they have contacted. Someone labeled them unfounded. Someone in the committee just hung with that forever. If that is one of the changes, I have no problems with that if you wanted an amendment to do that, but you don't throw the whole thing out after all of that time studying it because of this one question that you may have.

SENATOR LOVEJOY: TAPE INAUDIBLE.

SENATOR J. KING: No, it doesn't.

SENATOR LOVEJOY: TAPE INAUDIBLE.

SENATOR J. KING: The unfounded report shall be maintained in the central registry for no longer than 100 days and then shall be destroyed. I can't see anything wrong with it. They have to keep something to keep track of it while they are working with the cases. We don't want to dig in, you are talking about micro-management. If you want to take that out, that would still be a lot of value in the bill.

SENATOR LOVEJOY: Would you believe, Senator, that I can't vote for TAPE INAUDIBLE.

SENATOR J. KING: They are not referred to anything. These are unfounded cases of inhouse and inhouse only. The only ones that are founded, and they are very specific who they give it to, the state police, the Department of Education and those that are determining home placements.

SENATOR LOVEJOY: I want to thank Senator King for agreeing that this TAPE INAUDIBLE.

SENATOR WHEELER: Senator King, how many members of the legislature are on that study committee?

SENATOR J. KING: There were two from the House and two from the Senate.

SENATOR WHEELER: How many members of the legislature of that study committee, sponsored this bill?

SENATOR J. KING: One from the House and one from the Senate, mainly because the time elements, which were mixed up this year, as you know as well as I do, there were no legislators here from one section they were all done and we were still carrying on with ours. That is one of the basic reasons. I was kind of surprised, because you told me that you were going to do it, but I guess that something came up that you were unable to do it yourself.

SENATOR WHEELER: Senator King, would you believe that what came up, is what we discussed isn't what came out. The fundamental disagree-

ments that we had last year, when both your bill and my bill were killed last year, are still the same fundamental disagreements that we have between each other and with the House Judiciary and Family Law Committee? For instance, would you believe, that those differences are, that this bill allows, and so did my bill, for these founded cases to be shared with the state police who have 24-hour computer access and to the day care registry people for 24-hour computer access, but there is no penalty in there for people sharing that information with someone else. That was a major concern of the committee, that we are going to span the access to the central registry, then the legislation include a penalty for those people who might disclose their new knowledge. Also, would you believe, that we had extensive discussion about the difference between a civil case and a criminal case on the central registry, this bill would allow that certain civil cases or civil founded, if you will, rather than a guilty, be founded either through a board or an administrated finding, would remain on the central registry, indefinitely; also, because it doesn't say all founded cases shall remain on the central registry? Another point of contention throughout this two-years of this subject, would leave the door open for not putting cases of neglect on the central registry and where they should be. So the fundamental differences that we have always had, are still here and they haven't been worked out yet.

SENATOR J. KING: Might I say that I disagree with him, wholeheartedly disagree, and I don't believe it. The bill here, is a good bill and it should be passed onto the next part of the legislature so that they can work on it. If we don't, we will never get anything done. To begin with, he is the one who originated the central registry problems and that was four years ago. So that is how far back that this goes, and now after working on them for three years, he comes up with some ideas, and some of the things, I don't even know what he is talking about.

Recess.

Senator Delahunty in the Chair.

Question is on the committee report of interim study.

A roll call was requested by Senator J. King.

Seconded by Senator Cohen.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Barnes, Danaïs, Delahunty, Keough.

The following Senators voted No: Blaisdell, Pignatelli, Larsen, J. King, Russman, Shaheen, Cohen.

Yeas: 17 - Nays: 7

SB 660 is sent to interim study.

SB 663, an act relative to lead paint insurance coverage and lead paint risk reduction. Public Institutions, Health & Human Services Committee. Vote: 5-2. Ought to pass with amendment. Senator Wheeler for the committee.

5247L

Amendment to SB 663

Amend the bill by replacing all after the enacting clause with the following:

1 Exceptions Added. Amend RSA 130-A:1, XVIII to read as follows:

XVIII. "Owner" means any person who, alone or jointly or severally with others, has legal title to any dwelling, dwelling unit, or child care facility, or a person who has charge, care or control of a dwelling, dwelling unit, or child care facility as an agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner. An agent of the owner excludes real estate, property management, and other entities which do not have authority to fund capital or major property rehabilitation on behalf of the owner. The term "owner" does not include a person who holds indicia of ownership primarily to protect a mortgage interest or security interest in real or personal property on or at a dwelling, dwelling unit or child care facility and who does not participate in the management of a dwelling, dwelling unit or child care facility. ***The term "owner" shall also not include a trustee or a beneficiary under a deed of trust or a mortgagee, or the owner of a reversionary interest under a ground rent lease.*** For the purpose of this definition, the owner of publicly owned dwellings, dwelling units or child care facilities shall be the chief administrative officer of the responsible town, city, county or state agency.

2 New Paragraphs; Definitions Added. Amend RSA 130-A:1 by inserting after paragraph XXI the following new paragraphs:

XXII. "Affected property" means a property constructed before 1978 that contains at least one rented or leased dwelling or dwelling unit or any residential rental property for which the owner makes an election. The term "affected property", except per the election, does not include property certified as lead free, certified as in compliance, or certified as lead safe under this chapter. The term "affected property" also does not include property owned by the state or a political subdivision of the state.

XXIII. "Elevated blood lead" or "EBL" means a quantity of lead in whole venous blood that is at least 20 micrograms per deciliter or higher as reported on two separate tests except that a blood lead level may be designated as elevated by the attending physician when the level reported meets or exceeds 20 micrograms per deciliter on the first test. With such a declaration a second test shall not be required.

XXIV. "Person at risk" means a child 72 months of age or less or pregnant woman who resides in the affected property.

XXV. "Relocation expenses" means all expenses necessitated by the relocation of a tenant's household to lead-safe housing, including moving and hauling expenses.

XXVI. "Rent subsidy" means the difference between the rent paid by a tenant for housing at the time a qualified offer is made under RSA 130-A:15-f and the rent due for the lead-safe housing to which the tenant is relocated.

XXVII. "Risk reduction inspector" means any person who is accredited through the American Society of Home Inspectors, or equivalent, and has successfully completed a risk reduction inspector course.

3 Elevated Blood Levels. Amend RSA 130-A:5, I to read as follows:

I. The commissioner may investigate cases of lead poisoning in children reported under RSA 141-A [whose blood lead level meets or exceeds 20 micrograms per deciliter of whole blood] ***who are reported to have an EBL.*** The commissioner may also conduct investigations when there is reason to believe that a lead exposure hazard, as defined in RSA 130-A:1, XVI(b) and (d), for a child exists. Such investigations shall include, but not be limited to:

4 Nominal Construction Activities. Amend RSA 130-A:9, VI to read as follows:

VI. No person shall engage any individual for lead base substance abatement who has not been tested and certified under RSA 130-A:12. *However, individuals not certified under RSA 130-A:12, II, may engage in activities related to a lead exposure hazard reduction plan, such as, but not limited to, installation of exterior siding, carpet or paving, or application of encapsulants, provided the individual does not engage directly in lead base substance abatement, the tasks do not require personal protective equipment, and the plan is reviewed by a contractor licensed under RSA 130-A:12, I.*

5 Conduct of Inspections. Amend RSA 130-A:10, III to read as follows:

III. The conduct of inspections and inspection standards for lead inspectors, including procedures for issuing certificates of inspection, certifications of compliance *resulting from an ordered abatement or when found to be equivalent to abatement standards under this chapter*, and certifications when a dwelling or dwelling unit is found to be lead free, certifications when a *dwelling or* dwelling unit is found to be lead safe and for the review and validation of such certificates or certifications by the department for any person who so requests.

6 Clarification. Amend RSA 130-A:10, VIII to read as follows:

VIII. Procedures for lead base substance abatement, in-place management, and interim controls for interior and exterior surfaces. The procedures shall include methods of abatement and the measures necessary to protect the health and safety of lead abatement workers and to control the release of lead base substances to the environment. *The methods shall allow for alternative procedures that achieve the defined standard provided that they protect the health and safety of the lead abatement worker and do not cause the release of lead base substances to the environment.*

7 Reference Additions. Amend RSA 130-A:7, I to read as follows:

I. Whenever the commissioner has reason to believe that the provisions of RSA 130-A:8 [or], RSA 130-A:9, *RSA 130-A:15-b, I(b)(2), RSA 130-A:15-c, IX(a), or RSA 130-A:15-d, IV*, or any rule adopted by the commissioner under this chapter has been violated, the commissioner shall issue a notice of violation. The commissioner [shall] *may* also impose administrative fines under RSA 130-A:14 and may also request injunctive relief under RSA 130-A:17.

8 New Paragraphs; Prohibitions Added. Amend RSA 130-A:9 by inserting after paragraph VII the following new paragraph:

VIII. No person shall perform a risk reduction inspection who is not accredited through the American Society of Home Inspectors, or equivalent, and who has not first completed an eight hour maximum risk reduction inspector's course as developed by the department.

IX. No person shall perform a risk reduction inspection in any property in which they have a financial interest.

9 New Subdivision; Insurance for Buildings Containing Lead Base Substance. Amend RSA 130-A by inserting after section 15 the following new subdivision:

Insurance for Buildings Containing
Lead Base Substance

130-A:15-a Notification of Elevated Blood Levels. Whenever the commissioner makes an investigation under RSA 130-A:5 or an inspection under RSA 130-A:6, or both, the commissioner shall confirm that the following have been notified of the results of the test:

I. The person at risk, or in the case of a minor, the parent or guardian of the person at risk; and

II. The owner of the affected property in which the person at risk resides or regularly spends at least 10 hours per week.

130-A:15-b Risk Reduction Standards. No later than the first change in occupancy in a dwelling or dwelling unit in an affected property that occurs on or after 180 days from the effective date of this subdivision, anywhere a lead exposure hazard may occur, the owner of an affected property shall implement the risk reduction standards in this section in each dwelling or dwelling unit as they become vacant:

I.(a) Except for a replacement window or door that is free of lead base paint on its friction surface, or a window or door that has been tested by a certified inspector to be free of lead base paint on all exposed surfaces, when implementing the risk reduction standards of this section, a property owner or person shall utilize the following lead base paint stabilization measures specified in subparagraphs (b)-(k).

(b)(1) The following practices shall be prohibited while conducting risk reduction activities:

(A) Torch or flame burning, except for the removal of window glazing;

(B) Propane-fueled heat grids;

(C) Heating elements operating above 1100 degrees Fahrenheit;

(D) Dry abrasive sanding or blasting using sand, grit or any other particulate without an HEPA local vacuum;

(E) Uncontained hydro blasting or uncontained high pressure wash;

(F) Use of methylene chloride or solutions containing methylene chloride in interior work areas; and

(G) Encapsulants that have not been approved under RSA 130-A.

(2) Any person who willfully, maliciously and purposely uses these practices shall be liable for fines per RSA 130-A:14.

(c) Prior to commencing any dust generating risk reduction activity on an area larger than 30 square feet in the interior of any rented or leased occupied dwelling, rented or leased occupied dwelling unit or occupied child care facility, the property owner or other person shall prepare all interior work areas in accordance with the following requirements:

(1) All objects in the work area which are not being treated shall be completely covered with polyethylene sheeting at least 6 mils thick, sealed and taped securely in place with waterproof tape;

(2) All openings and penetrations between any risk reduction work area and all other areas within a building shall be sealed with polyethylene sheeting at least 6 mils thick secured with waterproof tape;

(3) Floor carpets shall be covered with at least one layer of polyethylene sheeting at least 6 mils thick, secured firmly with waterproof tape;

(4) All polyethylene sheeting and sealant materials shall be maintained to prevent the release of lead or lead contaminated materials from the work area into any other portion of the property; and

(5) If a break occurs in the sheeting that is covering carpeting, the carpet shall be cleaned at least by a thorough vacuuming with an HEPA filter vacuum.

(d)(1) Prior to commencing any dust generating risk reduction activity on the exterior of any rented or leased dwelling, rented or leased dwelling unit, or child care facility, the property owner or other person shall prepare all exterior work areas in accordance with subparagraph (2).

(2) Implement measures to ensure that all lead substances and lead dust will be contained in the work area, in accordance with the following:

(A) Doors, windows or other openings on the side of a building where any dust generating exterior risk reduction activity is planned, shall be securely closed; otherwise the opening shall be covered and sealed with polyethylene sheeting at least 6 mils thick and secured with waterproof tape;

(B) Whenever liquid or non-liquid waste is produced by any risk reduction technique, the ground or floor surface under all work areas shall be covered with polyethylene sheeting at least 6 mils thick;

(C) The sheeting shall be used as follows:

(i) When sheeting is placed on the ground, it shall be raised at its edges abutting the foundation at least 3 inches and shall extend out from the foundation at least 3 feet per story being worked on, with a minimum of 5 feet and a maximum of 20 feet to contain all waste;

(ii) The sheeting shall be securely fastened to the foundation or exterior wall with industrial staples or waterproof tape;

(iii) The sheeting shall be sealed at all seams with waterproof tape;

(iv) When sheeting is placed on an exterior floor, it shall be raised at its edges which are against a vertical surface at least 3 inches to contain all waste and shall cover the entire floor; and

(v) If the constant wind speed is more than 20 miles per hour, risk reduction activities producing dry wastes or lead-contaminated dust shall not be performed unless vertical shrouds are constructed which contain all lead dust within an area where there is no public access.

(e) Lead base paint stabilization of interior surfaces shall be conducted in the following manner:

(1) Loose and flaking paint shall be scraped away from surfaces, however, if dwelling or dwelling unit is occupied, such surfaces will be first misted with water;

(2) All surfaces shall be vacuumed with a high efficiency particulate air (HEPA) vacuum until no visible dust or debris remains;

(3) All surfaces shall be cleaned using a high phosphate detergent solution and rinsed with clean water;

(4) After being allowed to dry, all surfaces shall be HEPA vacuumed again;

(5) All bare surfaces shall be primed with primer; and

(6) All previously painted surfaces shall be covered with paint or other coating.

(f) Lead base paint stabilization of exterior surfaces shall be conducted in the following manner:

(1) Loose and flaking paint shall be removed; then

(2) All surfaces shall be cleaned using a high phosphate detergent solution and rinsed with clean water;

(3) All adjacent horizontal surfaces shall be vacuumed with a HEPA vacuum, cleaned with a high phosphate detergent solution, and rinsed with clean water; and

(4) One or a combination of the two following methods shall be utilized to cover the external surfaces:

(A) Recoating of repaired surfaces by:

(i) Priming all bare surfaces with primer; and

(ii) Then covering repaired surfaces with paint or other coating; or

(B) Enclosing surfaces with vinyl or aluminum siding.

(g) Lead base paint stabilization shall be conducted only when the substrate of the surfaces to be treated are dry, clean, and in good repair, prior to the application of new paint or other coating.

(h) The following exterior conditions, if they can cause a lead exposure hazard to exist, shall be repaired prior to conducting lead base paint stabilization:

- (1) Damaged or missing flashing on a door or a window;
- (2) Damaged or missing roof flashing;
- (3) Siding in contact with soil;
- (4) Water damaged siding or clapboards;
- (5) Missing or deteriorated trim on a door or window opening;
- (6) Missing or broken window panes;
- (7) Missing, damaged or deteriorated window caulking or glazing; or

(8) Any other deterioration or damage to building components that would compromise the effectiveness of these standards.

(i) The following interior conditions, if they can cause lead exposure hazards to exist, shall be repaired prior to conducting lead base paint stabilization:

(1) Visual leaks in wastelines, traps, supply lines, or fixtures above or in rooms undergoing lead base paint stabilization;

(2) Clogged condensate drip lines for air conditioners in, above, or adjacent to rooms undergoing lead base paint stabilization;

(3) Water heaters, free standing dishwashers, and washing machines without drip pans or overflow mechanism in, above, or adjacent to rooms undergoing lead base paint stabilization;

(4) Inadequately ventilated attic spaces, bathrooms, kitchens, and laundry spaces where there is visual evidence that inadequate ventilation is causing lead base paint surfaces to fail;

(5) Clogged plumbing fixtures or drains in, above, or adjacent to rooms undergoing lead base paint stabilization;

(6) Interior windows that do not close completely;

(7) Missing or broken window panes;

(8) Absent, incomplete, or deteriorated caulking around sinks and tubs in the bathroom or kitchen; or

(9) Any other deterioration or damage to interior components that would compromise the effectiveness of these standards.

(j) The following substrate defects if they can cause lead exposure hazards to exist shall be repaired prior to lead base paint stabilization:

(1) Dry rotted or rusty structural, siding, window, door, or railing components;

(2) Wall and ceiling plaster that is unkeyed from the underlying laths;

(3) Loose siding or trim; or

(4) Any other substrate condition that would compromise the effectiveness of these standards.

(k) When implementing these standards, a property owner or manager shall comply with the following:

(1) For windows, the following measures shall be taken in the order listed:

(A) Window stops and the lower window sash shall be temporarily removed to expose surfaces as specified in subparagraph (1)(C).

(B) Repairs to windows shall be in compliance with RSA 130-A:15-b, I, (e).

(C) Measures for lead base paint stabilization shall be taken for the following surfaces of the window:

- (i) Window jambs;
- (ii) Interior and exterior upper and lower sashes;
- (iii) Window stops; and
- (iv) Affected trim.

(D) The exterior sill and window well shall be capped with vinyl, aluminum coil stock, sheet metal flashing, or other impervious material securely affixed to the sill with edges sealed and caulked.

(2) As an alternative to the measures specified in subparagraph (k)(1), friction and impact surfaces may be eliminated by permanently fastening window sashes shut, when not otherwise prohibited by any other building or fire codes or by any local ordinances.

(3) When these standards are implemented for doors, the following measures shall be taken in the order listed:

(A) Door stops shall either:

- (i) Be removed and replaced with new door stops;
- (ii) Be wrapped with vinyl or aluminum coil stock securely affixed to the door frame; or
- (iii) Have rubber bumpers securely affixed on the surface of the door stop to protect the door stop from impact by the door.

(B) After temporary removal of the door from its hinges, edges of the door shall be planed to eliminate friction points should any exist.

(C) Measures for lead base paint stabilization shall be taken for the door and door components.

(D) The door shall be rehung and checked to verify that all friction points have been eliminated.

(4) When these standards are implemented for stair systems, the following measures shall be taken in the order listed:

(A) Measures for lead base paint stabilization shall be taken for the friction and impact surfaces of the stair system.

(B) The stairs shall then be covered by securely affixing rubber tread guards or carpet that cover the entire width of the stairs between the stringer and balusters, after, as needed, priming and painting the stair risers.

(5) When these standards are implemented for baseboards, measures for lead base paint stabilization shall be taken in compliance with RSA 130-A:15-b, I(e).

(6) When these standards are implemented for outside wall corners, a corner bead shall be installed.

(7) When these standards are implemented for drawers and cabinets, the following measures shall be taken in the order listed:

- (A) Contents of the drawers and cabinets shall be removed.
- (B) Drawers shall be planed at friction surfaces, if painted.

(C) Measures for lead base paint stabilization shall be in compliance with RSA 130-A:15-b, I(e).

(D) Rubber or felt bumpers shall be installed to reduce impact.

(8) When these standards are implemented for painted porches, decks and interior floors, measures for lead base paint stabilization shall be taken for all surfaces to make them reasonably smooth and cleanable, except that the paint or covering used shall be intended for use on flooring.

(9) Risk reduction standards for soil shall be implemented whenever the following conditions apply:

- (A) Bare soil in a child's play area; or

(B) The following combinations of soil conditions exist:

(i) Except for active beds intended for ornamental plantings, the total surface of each bare soil area is greater than 1 square yard (9 square feet); and

(ii) The soil is located in one or more of the following areas:

(a) Drip line/foundation areas;

(b) Bare pathways;

(c) Pet sleeping areas;

(10) When conditions under subparagraph (9) apply, the owner shall;

(A) Seed the area with grass seed; or

(B) Cover the area with stone, crushed rock, gravel, bark mulch, wooden nuggets or artificial turf; or

(C) Plant ivies or other spreading plants, thorny or dense shrubbery, on the area; or

(D) Implement land use controls, such as but not limited to, fencing, decks, and moving play equipment from areas of bare soil.

II. Upon completion of the risk reduction activities set forth in RSA 130-A:15-b, I, the owner of an affected property shall pay to determine compliance with the standards by having the property inspected by a risk reduction inspector mutually selected by the owner and the liability insurance carrier and trained in accordance with this chapter. Written inspection reports prepared by the risk reduction inspector shall be given to the owner, and to the owner's insurance carrier upon their request.

III. On each successive apartment vacancy, the owner shall:

(a) Check the integrity of the work previously performed and rectify any discrepancy.

(b) Wash all interior horizontal dust gathering surfaces that might present a lead exposure hazard with a high phosphate detergent solution, rinse with clean water and, when dry, vacuum with an HEPA vacuum.

130-A:15-c Compliance Requirements; Liability Protection; Cost of Temporary Relocation; Abatement Orders.

I. On and after June 1, 2001, an owner of affected properties shall ensure that at least 25 percent of the owner's affected properties have satisfied the risk reduction standard specified in RSA 130-A:15-b, without regard to the number of affected properties in which there has been a change in occupancy.

II. On and after June 1, 2006, an owner of affected properties shall ensure that at least 50 percent of the owner's affected properties have satisfied the risk reduction standard specified in RSA 130-A:15-b, without regard to the number of affected properties in which there has been a change in occupancy.

III. On and after June 1, 2011, an owner of affected properties shall ensure that at least 75 percent of the owner's affected properties have satisfied the risk reduction standard specified in RSA 130-A:15-b, without regard to the number of affected properties in which there has been a change in occupancy.

IV. On and after June 1, 2016, an owner of affected properties shall ensure that 100 percent of the owner's affected properties have satisfied the risk reduction standard specified in RSA 130-A:15-b without regard to the number of affected properties in which there has been a change in occupancy.

V. Compliance with paragraphs I-IV of this section shall be determined by the liability insurer of the owner based upon the inspection reports as required by RSA 130-A:15-b, II.

VI. The liability protection under RSA 130-A:15-f, XII shall be available to any owner who is in compliance with RSA 130-A:15-b and paragraphs I-IV of this section, without regard to whether or not the specific affected property involved in an action has undergone the risk reduction standard established under RSA 130-A:15-b.

VII. The provisions of this section shall not apply if the owner proves that the noncompliance results from:

(1) A tenant's lack of cooperation with the owner's compliance efforts; or

(2) Legal action affecting access to the unit.

VIII. The owner of an affected property shall be responsible for the cost of any temporary relocation of the tenants of the affected property that is necessary to fulfill the requirements of this section.

IX.(a) Any owner who receives an order of abatement pursuant to RSA 130-A:7 shall immediately commence tenant relocation in accordance with RSA 130-A:8-a.

(b) If the owner confirms that the person at risk has been relocated until the dwelling or dwelling unit meets the conditions of RSA 130-A:15-b, the abatement order shall be held in abeyance until the time for acceptance or rejection of a qualified offer made in accordance with RSA 130-A:15-f.

(c) The order of abatement shall be rescinded if the qualified offer has been accepted, all persons at risk have been relocated, and prior to reoccupancy the dwelling or dwelling unit is in compliance with the risk reduction standards of RSA 130-A:15-b.

(d) All costs of relocation incurred by the owner under subparagraph (a) shall be reimbursed directly to the owner from the qualified offer.

130-A:15-d New Rental Agreements.

I. The owner of an affected property shall, as part of all new rental agreements, give a written request to all new tenants requiring them to inform the owner, in writing, of any significant chips from, peeling of, or damage to any painted surface.

II. The owner shall give a similar written request to all current tenants at the next tenancy renewal, but no later than one year from the effective date of this section.

III. Unless the painted surface is on a replacement window, door or surface that is free of lead base paint on its friction surfaces, or a painted surface has been documented as lead free by a licensed inspector, the owner shall make any necessary repairs within 30 days of notification.

IV. When an owner receives notification of case management pursuant to RSA 130-A:6-a and the person at risk resides in a dwelling or dwelling unit which is not in compliance with RSA 130-A:15-b, the owner shall have 60 days to bring the dwelling or dwelling unit into compliance.

V. The tenant shall, in a timely manner, in writing, inform the owner of any significant chips from, peeling of, or damage to any painted surface. The owner shall not be liable for any damages arising from the tenant's lack of notification.

VI. If the owner does not perform as required under this section, the owner will lose the protection of RSA 130-A:15-f.

130-A:15-e Repairs; Removal From Risks; Refusal of Tenant.

I.(a) Whenever the risk reduction standards per RSA 130-A:15-b are being implemented by an owner of an affected property who intends to make repairs or perform maintenance work that will disturb a lead base substance on interior surfaces of an affected property, the owner shall

make reasonable efforts to insure that all persons who are not persons at risk are not present in the area where work is performed and the owner shall confirm that all persons at risk are removed from the affected property before the work is performed.

(b) A tenant shall allow access to an affected property, at reasonable times, to the owner to perform any work required under this subdivision.

(c) If a tenant must vacate an affected property for a period of 24 hours or more in order to allow an owner to perform work that will disturb the paint on interior surfaces, the owner shall pay the reasonable expenses that the tenant incurs directly related to the required relocation.

II.(a) If an owner has made reasonable efforts to cause the tenant to temporarily vacate an affected property in order to perform work that will disturb the paint on interior surfaces, and the tenant refuses to vacate the affected property, the owner shall not be liable for any damages arising from the tenant's refusal to vacate.

(b) If an owner has made reasonable efforts to gain access to an affected property in order to perform any work required under this subdivision, and the tenant refuses to allow access even after receiving reasonable advance notice of the need for access, the owner shall not be liable for any damages arising from the tenant's refusal to allow access.

130-A:15-f Qualified Offer.

I. In this section:

(a) "Action" includes a complaint, crossclaim, counterclaim, or cross-third-party complaint.

(b) "Offeror" means a person, including an insurer or other agent, who makes a qualified offer under this section.

II.(a) This section applies to all potential bases of liability for alleged injury or loss to a person caused by the ingestion of lead by a person at risk in an affected property.

(b) This section applies to an owner of an affected property who has, with respect to the affected property, complied with the applicable requirements of RSA 130-A:15-b and RSA 130-A:15-c.

(c) This section applies to an owner of an affected property who has, with respect to the affected property, brought the property into current compliance with the applicable requirements of RSA 130-A:15-b and RSA 130-A:15-c.

III. A person shall not bring an action against an owner of an affected property for damages arising from alleged injury or loss to a person at risk who has received notice of EBL or to a person who has any other level of blood lead, presumably caused by the ingestion of a lead base substance, unless the owner has been given:

(a) Written notice from any person of the elevated blood lead level of a person at risk; and

(b) An opportunity to make a qualified offer under this section.

IV. A person shall not bring action against an owner and shall not be able to receive a qualified offer if the owner was not given written notice of the EBL status within 6 months of the performance of the test.

V. A person who receives notice under this section is entitled to the results of any prior blood lead tests of the person at risk for the purpose of determining whether to make a qualified offer under this section. That person is entitled to the identification of all medical providers and an authorization to obtain those results.

VI.(a) An owner who receives the results of a blood lead test of a person at risk under this chapter shall not disclose those results to another person except:

- (1) The insurer of the owner;
- (2) A medical doctor or other professional with whom the owner consults; or
- (3) An attorney of the owner or of any person specified in subparagraphs (a)(1) or (2).

(b) A person who received blood lead test results from an owner under subparagraph (a) shall not disclose those results to any person not specified in subparagraph (a).

VII. The person who notifies the owner under this section, the person at risk, or a parent with primary legal custody or legal guardians of a minor who is a person at risk, and the department in providing notice under RSA 130-A:6-a, or in issuing an order under RSA 130-A:6, I may request from the owner copies of inspection reports issued under RSA 130-A:15-b, II and such information as needed to confirm that the owner is in compliance with RSA 130-A:15-c and, if the dwelling or dwelling unit had received the risk reduction activities, that the unit was in compliance with RSA 130-A:15-b at the initiation of the tenancy.

VIII. If an order issued under RSA 130-A:6 or a notice issued under RSA 130-A:6-a is based on a test performed within 30 days after the person at risk begins residence in a dwelling or dwelling unit whose owner is in compliance with RSA 130-A:15-c, it shall be presumed that the ingestion of the lead-based substance did not occur at the dwelling or dwelling unit. The tenant shall give notice of the EBL to the owner of the previous residence.

IX.(a) A qualified offer may be made to a person at risk under this section by:

- (1) The owner of the affected property in which the person at risk resides or regularly spends at least 10 hours a week;
- (2) An insurer of the owner; or
- (3) An agent of the owner.

(b) If a qualified offer is made under subparagraph (a) of this paragraph, it shall:

- (1) Be made within 45 days after the offeror receives notice under this section.
- (2) Include the provisions specified in paragraph XIII of this section.

(c) An offeror shall send notice of the qualified offer to the person at risk, or in the case of a minor, the parent with primary legal custody or legal guardian of the minor.

X. A person at risk, or a parent with primary legal custody or legal guardian of a minor who is a person at risk, may accept or reject a qualified offer within 45 days after receipt of the qualified offer unless the parties agree to a longer or shorter period of time. An offer which is not accepted within 45 days, unless the parties agree to a different time limit following receipt, shall be deemed to have been rejected.

XI. Acceptance of a qualified offer by a person at risk, or by a parent, legal guardian, or other person authorized to respond on behalf of a person, discharges and releases all potential liability of the offeror and the offeror's insured and principal to the person at risk and to the parent or legal guardian of the person at risk for any alleged injuries or loss caused by the ingestion of lead by the person at risk in the affected property.

XII. An owner of an affected property is not liable for any alleged injuries or loss caused by ingestion of lead by a person at risk in the affected property, or a parent, legal guardian, or other person authorized

to respond on behalf of a person at risk, who rejects a qualified offer made by the owner or the owner's insurer or agent if, during the period of the alleged ingestion of lead by the person at risk, the owner was in compliance with the applicable risk reduction standard and response standard under RSA 130-A:15-b and the risk reduction schedule under RSA 130-A:15-c.

XIII.(a) Whenever a qualified offer is made under this section, the qualified offer shall include payment for reasonable expenses and costs up to the amount specified in paragraph XIV for:

(1) The relocation of the household of the person at risk to lead-safe housing of comparable size and quality. Such relocation may provide for:

(A) The permanent relocation of the household of the affected person at risk to lead-safe housing, including relocation expenses, a rent subsidy, and incidental expenses; or

(B) If the owner elects to abate the lead base hazard, the temporary relocation of the household of the affected person at risk to lead-safe housing while necessary lead hazard reduction treatments are being performed in the affected property to make the affected property lead-safe; and

(2) Unreimbursed medical evaluations and medically necessary treatments for the affected person at risk as determined by their treating physician that is necessary to mitigate the effects of lead poisoning, and, in the case of a child, until the child reaches the age of 12 years. As an initial payment from the qualified offer for costs already incurred, the owner or agent shall pay \$500 to the guardian of the person at risk within 10 days of acceptance of the qualified offer for payment of undocumented incidental medical expenses.

(b) An offeror is required to pay reasonable expenses for the medical evaluations and medically necessary treatments under subparagraph XIII(a)(2) if coverage for these treatments is not otherwise provided by public or private health insurance.

(c) A qualified offer shall include a certification by the owner of the affected property, under the penalties of perjury, that the owner has complied with the applicable provisions of this subdivision in a manner that qualifies the owner to make a qualified offer under this section.

XIV.(a) The amounts payable under a qualified offer made under this section are subject to the following maximum for any single person at risk, including the parent or legal guardian of that person at risk:

(1) \$7,500 for all medical evaluations and medically necessary treatments as provided and limited in paragraph XIII, except that for medical evaluations and medically necessary treatments covered by private health insurance, this amount shall be for otherwise unreimbursed medical evaluations and medically necessary treatments; and

(2)(A) \$1,500 for relocation expenses; and

(B) \$7,500 for rent subsidies, up to 50 percent of the existing rent each month for the affected property, for the period until the person at risk reaches the age of 6 years.

(b) All payments under a qualified offer specified under subparagraph (a) of this paragraph shall be paid to the provider of the service.

130-A:15-g Liability Insurance Requirements for Affected Property.

I. In this section:

(a) "Authorized insurer" means an insurer which:

(1) Holds a certificate of authority in this state;

(2) Issues or issues for delivery in this state third party bodily injury liability insurance under:

- (A) Homeowners' coverage;
- (B) Owners, landlords, and tenants coverage; or
- (C) Other premises liability coverage; and

(3) Is subject to regulation by the New Hampshire insurance department.

(b) "Department" means the New Hampshire insurance department.

II. Notwithstanding paragraph VI of this section, upon inception or renewal of a policy on or after the effective date of this subdivision, an insurer may provide for a lead hazard exclusion with respect to a policy of insurance covering an affected property; however, such lead hazard exclusion shall be waived with respect to an affected property which is covered under the policy to the extent of a qualified offer made or to be made under RSA 130-A:15-f if:

(a) The owner of the affected property is in current compliance with the schedule of or provisions of the risk reduction standards as specified in RSA 130-A:15-b or RSA 130-A:15-c.

(b) The insured provides to the authorized insurer a copy of the reports of designated inspectors documenting the dwelling units of the owner's affected property that comply with the standards set forth in RSA 130-A:15-b.

(c) The insured otherwise meets the insurer's underwriting standards, which may be more restrictive than the risk standards specified in RSA 130-A:15-b and the schedule set forth in RSA 130-A:15-c.

III. The lead hazard exclusion authorized in the preceding paragraph shall be available to an authorized insurer only if the policy of insurance provides coverage of an affected property for the amount of a qualified offer made or to be made under RSA 130-A:15-f. Such exclusion may exclude coverage for lead hazard with respect to an affected property in excess of the amount of such qualified offer.

IV. This section applies only to coverage for lead hazard and does not affect coverage for property damage or any other form of coverage provided in a policy or contract of insurance.

V. In lieu of waiver of a lead hazard exclusion under paragraph II of this section, and with the proper approval of the department, an authorized insurer may offer an alternative form of coverage for a qualified offer made with respect to an affected property.

VI. The department shall review policy forms and endorsements to implement and enforce compliance with the provisions of this subdivision.

10 New Subdivision Heading. Amend RSA 130-A by inserting after section 16 the following new subdivision heading:

Penalties, Injunctions, and Civil Suits

11 Effective Date. This act shall take effect January 1, 1997.

SENATOR WHEELER: SB 663 is also the result of two years of study. I must give credit where credit is due, Senator Shaheen worked very hard on that first-year study committee. Much of what is in this bill is modeled after some of what she was doing and we are grateful for that. The second year of the study committee expanded on that. Basically what this bill does is that it sets up a voluntary program for the landlords to clean up the lead paint that is in deteriorating conditions in their units. The landlords have come to us and they are willing to put \$100,000,000. on the table over 20 years to clean up lead paint in their units, in exchange for being allowed to buy, through free market methods, insurance for lead hazard coverages in their units. The bill also provides for a qualified offer

so that if a child is poisoned, despite this work, they will have basically immediate cash to take care of the child's medical expenses and to relocate the child into a unit that is lead safe or lead free. This bill has had a lot of work. We have had quite a few amendments at the public hearing, eight pages of amendments came in. Those amendments are incorporated into the amendment, which is the bill before you today. We will lead the nation in cleaning up lead paint and won't be instituting a new tax to do it. This is legislation that New Hampshire should be very, very proud of. Also, I just handed out a fax from the New Hampshire Department of Health and Human Services, their concerns have been addressed, and you can see that on the last paragraph, "we have agreed to support SB 663 as amended." The Insurance companies are in agreement, the landlords are in agreement. We have done a tremendous amount of work and I thank all of you that have been involved and I would ask your support on this legislation.

SENATOR LARSEN: You will notice that the vote on this in committee was not unanimous. What we had at 5:30 last night, was a 20 page amendment on lead paint reduction that none of us had seen. This happened I know, in other committees, and I know that it does happen, but on an issue of this magnitude, I was particularly upset that we hadn't time to review it nor were most of the committee members invited to participate in the discussions that came to this so-called compromise. What we have in this bill is both a promise and a threat. This bill begins the process of cleanup of the lead paint hazards in the apartment buildings, the affordable housing in this state. We all recognize that a lead paint problem is a huge problem. The difficulty is that in beginning this cleanup process, we encourage people to go into apartment buildings, with eight hours of training on how to do lead paint hazard reduction. With that eight hours, they begin the process of removing lead paint. There will be people who will learn in those eight hours, how to do it right. The fear is, there will be people who don't do it right. What we are putting at risk is that these children who currently live in homes with lead paint that has not been disturbed, will be in apartments where lead paint has now been disturbed, there is that risk. The promises that we begin to clean up the problem, so we have Solomon's choice here, in my mind, and it is a very difficult choice, but I think that all of you in voting on this bill, have to be aware, that you have this choice today, yes, we have agreement from the insurance industry to put in some money, we have agreements from the landlords to put in some money, but are we risking the health of the children of this state by beginning to disturb what is lead paint that is undisturbed now? We run that risk. The Department of Health and Human Services in a conversation this morning, told me that they now have tests that can show lead levels at lower levels than previously. Do we run these risks with the children of this state? So we have these philosophical worries and the issue is, we can wait and do nothing or we can vote for this and hope against hope, that we are not exposing the children of this state to greater lead hazards than they currently see. There is also an issue that I raise to you today, on the issue of the liability count. You will see in this amendment, which is quite substantial, that under one section, a landlord who begins to clean up any portion of their apartments, is now not held liable for damages above \$17,500. The benefit is that a child who has been exposed, is guaranteed of medical payments up to \$17,500. There is a question of constitutionality of this liability count. I am not a constitutional lawyer, I can't tell you if it is going to hold, but there have been caps proposed in other ar-

eas of law that have not withstood the test of time, so I urge you to think about that in voting for this. We truly have a Solomon's choice here in terms of what is best for the children of this state, what is best for guaranteeing that the public health of our children is protected. Is it best to begin to go in and clean it up or do nothing and continue to have children exposed to lead in this state? I can't give you the answer to that. In the half hour meeting last night, I did not come up with an answer for myself. I think that this is an agreed upon bill. Apparently, Health and Human Services has said that they are willing to live with this. Perhaps the best thing is to continue to discuss it over in the House. I wanted you all to be aware of the issues involving this because they are very substantial issues. I am not sure that we have resolved them all in this bill. Thank you.

SENATOR F. KING: I guess that I am a little confused, Senator, are you suggesting that we vote for the bill or against the bill?

SENATOR LARSEN: I guess that I have come to the conclusion that we send it over to the House and continue to discuss it over there and have them look at it.

SENATOR F. KING: Do you recommend voting for the bill?

SENATOR LARSEN: Yes, I do.

SENATOR F. KING: Thank you very much.

SENATOR SHAHEEN: I will be brief because I know that everyone is hungry. I appreciate Senator Wheeler, your conciliatory tone and the acknowledgment of the work that not only I did, but Senator John King and others in the legislature did on this issue. I have to say, however, that I think that there are a number of issues that are raised in this amendment that I am not comfortable with and I am going to be voting against the bill. I think that some of the efforts to protect children and to address the insurance issues, haven't been addressed in a way that I think is most effective to protect children, so I am going to vote against it.

Senator Barnes moved the question.

Adopted.

Amendment adopted.

Ordered to third reading.

SENATOR BLAISDELL (Rule #44): Just a very brief rule #44. I want to let you know where I am coming from. When we talked this morning about the fines, every Senator in this room would get up and say "I want to send more money back to the cities and towns, I want to do it," but it is \$12 million and to be responsible, we had a vote on it and the six-pack are the heroes because we voted to send money back to the cities and towns, 18 republicans said, "No, we can't do it." My problem is this: I realize that it is a different Senate Finance, I know that there is a different chairman, but why not take a bill like that and put \$1 in the bill, and send it to the House, and let them decide along with you, because the chairman said a few minutes ago, that the governor said that things are rosy. We don't know what is going to happen until June; April, May, June. So maybe we can in our wisdom, send the bill over there so you can go back and say, "Wow, I am in favor of sending money back to the cities and towns, but we have to have the money to do it," anymore than Senator Lovejoy is in favor of reducing the Business Profits Tax. He is right. But why can't we pass some of those bills and put \$1 in it, as you say, Mr.

President, send it over to the House, and then debate it. You know what kind of money you are going to have. Don't let them put you on record that you are against all of that. Don't let them put the Senate on record that you are against it. Let the House, there are 400 people over there that are just as responsible as you are, and they want to send money back. Let them debate it, then at the end of the session if you decide there are a few dollars and you can send some money back, fine. Maybe it won't be with fines. There are other bills on the table right now. SB 522 which Senator Larsen's bill . . . there is supposed to be \$400,000 in that AFDC bill and it gives the children of our state some day care. We tell these women to get a job. Now with the 190 percent down to 170 percent, they have lost their eligibility. We have lost the day care, so now they don't get a job and they go back on welfare. That is not what we are trying to do here. So that is the kind of bill that I say that you should put \$1 in and get it over to the House and see if they can't debate it in their Finance Committee, too. That is the way that you do business here. Even if everybody thinks that it is wrong. It is the right way to go. You at least get two bodies deciding on what happens here and the Senate doesn't get the rap that they don't want to put kids in day care and that they don't want to send municipal funds back. That is what you should do. I know that I am sorry that Senator Currier isn't here because I know that he would say that I am wrong, but put a couple of bucks in it and send it over to them and let them take some of the responsibility.

Recess.

Out of recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

HB 1636, declaring the Milford School District meeting to be held March 9, 1996 to be legally noticed.

Senator Currier moved adoption.

Adopted.

Senator Cohen moved to have **SB 505**, an act prohibiting bear and deer baiting for hunting purposes, taken off the table.

Recess.

Out of recess.

Question is on the motion to take SB 505 off the table.

A division vote was requested.

Yeas: 11 - Nays: 12

Motion failed.

TAKEN OFF THE TABLE

Senator Shaheen moved to have **SB 534**, an act requiring candidates to report when either receipts or expenditures exceed a certain amount, taken off the table.

A division vote was requested.

Yeas: 20 - Nays: 0

Motion is adopted.

SB 534, an act requiring candidates to report when either receipts or expenditures exceed a certain amount. Executive Departments and Administration Committee. Ought to Pass. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill closes a loophole that is currently in our election recording laws. Right now, you don't have to file with the secretary of state unless your expenditures exceed \$500. The loophole being that if your receipts are up to \$10,000 or more, no one in the world is ever going to know that. The concern generally, is who are you getting your money from and how much, rather than how much you are spending? So this will close the loophole that says that you have to report whenever your receipts or expenditures exceed \$500.

Question is on the committee report of ought to pass.

Adopted.

Ordered to third reading.

Senator Larsen moved to have **SB 522**, an act increasing the income eligibility for child care benefits under AFDC, taken off the table.

Question is on the motion of taking SB 522 off the table.

A roll call was requested by Senator Larsen.

Seconded by Senator Pignatelli.

The following Senators voted Yes: F. King, Gordon, Blaisdell, Pignatelli, Larsen, Podles, J. King, Shaheen, Cohen.

The following Senators voted No: Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Barnes, Russman, Danais, Delahunty, Keough.

Yeas: 9 - Nays: 15

Motion failed.

TAKEN OFF THE TABLE

Senator Rodeschin moved to have **SB 501**, an act repealing a requirement for keeping records of sales of pistols and revolvers, taken off the table.

Adopted.

SB 501, an act repealing a requirement for keeping records of sales of pistols and revolvers. Fish and Game/Recreation Committee. Majority Report: Ought to pass. Senator Rodeschin for the Committee. Minority Report: Ought to pass with amendment. Senator Wheeler for the Committee.

Question is on the committee amendment.

SENATOR WHEELER: SB 501 repeals a requirement when you buy a pistol or revolver, a copy of that sale or paper work to go to the local police chiefs. That paper work is no longer necessary because of the instant check law that we passed, the background check law that you now have before you can buy a firearm. The committee is in agreement that that is a good bill. The minority report amendment comes from testimony. The minority report, which is in the green daily Journal, but I will read it to you because it is very, very short, "repeals two obsolete provisions of the 1968 gun control act, in that it is no longer valid because they have been replaced by a new gun control act allowing you to buy firearms from all

over the country." You had a letter in your mailbox yesterday, from Gun Owners of New Hampshire strongly supporting this amendment that came in during testimony, during the public hearing, for this bill. We would ask you to support the minority report to adopt this amendment and it leaves the original bill intact as well.

Recess.

Out of recess.

A roll call was requested by Senator Wheeler.

Seconded by Senator Stawasz.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Blaisdell, Wheeler, Stawasz, Pignatelli, Colantuono, Larsen, Podles, Barnes, J. King, Russman, Danaïs, Shaheen, Delahunty, Keough, Cohen.

The following Senators voted No:.

Yeas: 24 - Nays: 0

Amendment adopted.

Ordered to third reading.

SENATOR LARSEN (RULE #44): I would like to take a few moments of your time to point out the big picture of what we are doing today. We have just stood up for the rights of pistol packing moms and dads to carry those pistols across interstate lines. We have just taken that bill off of the table when we didn't have the guts to take off and consider the issues of welfare moms who are working their hardest to support the kids of this state. We are telling those people that they have to be at work. We are telling them to go into work and we are risking these children's well being, not knowing whether these people can continue to support their kids in quality day care. I just want to point out that that is the record that this Senate has produced today, and I go home today, not feeling very good about what this Senate has stood for today. I had to point that out to you. Thank you for the Rule #44.

TAKEN OFF THE TABLE

Senator Rubens moved to have **SB 584-LOCAL**, an act requiring that bond issues be voted on by official ballot and restricting reconsideration of votes on bond issues, taken off the table.

A division vote is requested.

Yeas: 16 - Nays: 0

Motion is adopted.

SB 584-LOCAL, an act requiring that bond issues be voted on by official ballot and restricting reconsideration of votes on bond issues. Public Affairs Committee. Vote: 6-0. Ought to pass with amendment. Senator Stawasz for the committee.

Question is on the committee amendment.

SENATOR STAWASZ: I am going to defer to Senator Rubens.

SENATOR RUBENS: I would encourage you to vote for SB 584 because we have a floor amendment that we will offer that corrects the technical

flaws disclosed during the debate earlier today. I polled the members of the committee on the fixed technical faults and the vote in the committee was 5 to 1 in favor of the fix.

Amendment adopted.

Senator Rubens offered a floor amendment.

5257L

Amendment to SB 584-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

requiring bond issues to be voted on by official ballot and restricting reconsideration of votes on bond issues.

Amend RSA 39:3-d, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Articles concerning the issuance of bonds or notes shall [not] be placed on the official ballot.

Amend RSA 40:10-a, I as inserted by section 2 of the bill by replacing it with the following:

I. An annual or special meeting held by any local political subdivision as defined by RSA 40:12 shall restrict reconsideration of all votes on bond issues, except for the correction of technical faults, considered during a meeting or any adjourned session of such a meeting. No vote or article which has been restricted under this section shall be reconsidered during that meeting or any adjourned session of such meeting, except as provided in paragraph II.

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill requires bond issues to be voted on by official ballot and restricts reconsideration of votes on bond issues.

SENATOR RUBENS: The floor amendment is being handed out. It constitutes that there is a single sentence being changed, which reads as follows: IV. Articles concerning the issuance of bonds or notes shall [not] be placed on the official ballot. In the existing law, the word "not" is being removed. The issues concerning bonds or notes, formally, shall not be placed on the official ballot. The change that we are making here is that they "shall" be placed on the official ballot. Again, I polled the members of the Public Affairs Committee on this change and it was 5-1 in favor of that change.

SENATOR SHAHEEN: Senator Rubens, what happens in those communities that adopt an official ballot bill?

SENATOR RUBENS: There is no requirement for a community to adopt an official ballot bill.

SENATOR SHAHEEN: No, I understand, but does this law allow for that?

SENATOR RUBENS: Absolutely. There is no requirement that a community has to adopt the official ballot bill in order to TAPE INAUDIBLE.

SENATOR SHAHEEN: Let me just clarify that question. I am clear that there is no requirement that the community adopt the official ballot bill. My question is, the way that this amendment is now phrased, does it not require all communities to put the item on the ballot, and if they have not adopted the official ballot bill, then doesn't it create a problem?

SENATOR RUBENS: No. It requires that the bond be placed on the ballot whereas the members of the school board TAPE INAUDIBLE. So all communities have official ballot occurrence, in this case.

SENATOR SHAHEEN: Have you asked the Senate legal counsel for an interpretation of that and are you absolutely certain that that is the case, because I guess that it seems to me that if we are requiring communities that have not adopted the official ballot bill, to put this on a ballot, then we are mandating to them what they have to do? Again, I question whether that is a violation of 28-A and I also question whether we want to do that to communities? I understand that those communities that have adopted the official ballot bill why you can say that, but I am not sure how that is going to work with the communities that haven't.

SENATOR RUBENS: I did not receive an opinion from the Senate legal counsel.

SENATOR F. KING: Senator Rubens, I am a little confused about the term "official ballot." I will give you a scenario and you tell me how this applies: My town last year voted to build a town garage, they also voted to do extensive renovations to the town hall, worth \$350,000. That was voted on after the discussion at the town meeting and the recess call, and a ballot vote was taken, which needed a 2/3 vote to pass. My concern is, that if this passes, would that force that vote to take place during the day when we have an official ballot and our elected town's officers, school board members or not?

SENATOR RUBENS: TAPE INAUDIBLE.

Senator Fraser moved to have **SB 584-LOCAL**, an act requiring that bond issues be voted on by official ballot and restricting reconsideration of votes on bond issues, laid on the table.

Adopted.

LAIID ON THE TABLE

SB 584-LOCAL, an act requiring that bond issues be voted on by official ballot and restricting reconsideration of votes on bond issues.

TAKEN OFF THE TABLE

Senator J. King moved to have **SB 646**, an act allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence and permitting certain prisoners to be sentenced to substance abuse treatment centers, taken off the table.

Adopted.

SB 646, an act allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence and permitting certain prisoners to be sentenced to substance abuse treatment centers. Judiciary Committee. Inexpedient to Legislate. Senator Lovejoy for the committee.

SUBSTITUTE MOTION

Senator J. King moved to **substitute Ought to Pass for Inexpedient to Legislate**.

SENATOR J. KING: I rise in support of SB 646 for several reasons, first of all, it changes the requirements for those situated at the state prison in New Hampshire. It deals basically, with two different groups, the violent offenders and the nonviolent offenders and it makes a real distinction between violent offenders as compared to nonviolent offenders in

prison. It specifies that only those convicted of a violent crime, shall have an added discipline period of 150 days TAPE INAUDIBLE for each year as a minimum sentence. Again, it doesn't affect the violent offender, we are not talking about that. They have to do the sentence and contingency the same way that it is. This just deals with the nonviolent offender. This means that there is no change in release for the violent offender. Non-violent offenders, in addition to not having the 150 day disciplinary period added to the minimum, shall be given good time as they were about 20 to 25 years ago, ten days for each month from the minimum sentence. The prisoner has to exhibit good conduct during this period of time. That is the first part of the bill. The second part of the bill deals with the Department of Corrections to hire two probation officers a year for the next ten years. This would strengthen the system, hopefully, to keep people out of prison, and hopefully, to handle the paroles in a better fashion. The third part of the bill allows for the nonviolent offenders for the court to assign them to sentencing them to prison would allow them to complete their sentence in a drug or alcohol abuse place. Then if they follow through, then they are placed on probation or parole, if they don't follow through, they go back and finish their prison sentence. The money saved in this is amazing and it would handle a lot of the problems that we talked about this morning. The Department of Corrections has determined that this bill will save \$1,466,000. in the first six months of 1997 and by 1997, three million plus, for each fiscal year thereafter, just by putting this into effect and treating the nonviolent offenders different than you have. This has no effect on the local or county officers. The Department of Corrections estimates that there are about 900 new admittances each year and approximate 2/3 of those or 600 of them are nonviolent offenders, which mean that only 1/3 would be serving the full sentence and would be following their true sentencing and not have any good time. Not only that, but, with that \$3 million and that \$1 million, the Department of Corrections has already suggested and put it in the bill, that five probation officers have been added each year for the next two years, so you would have five probation officers one year and five the next, and you are still going to end up with \$3 million plus and \$1 million plus for the remainder of this session. Since 1984 and 1985, the population in the prison has gone from around 400 to over 2,000 people. We don't have enough space at the present time. We won't even have enough if they do build one facility, the one that they are talking about, building in Berlin and that still wouldn't suffice. If something ever happens to the Laconia area, the problem would only be worse. I think that it is about time that we start looking at is there a better way of dealing with the offenders, especially the nonviolent offenders, and especially when it is going to save us money that we could use to make sure that the violent offenders are in prison where they belong. I ask for your support on this, thank you.

SENATOR F. KING: It probably doesn't come as a surprise that I am a little confused on this. This bill, as Senator King has been arguing, this bill that he and I introduced, that didn't do well in the committee, from what I understand what we are prepared to do today and would like to do today, is to amend this bill to a study committee and to take out some of the language that the committee found not to their liking. That, I believe, is what we are intending to do.

SENATOR LARSEN: Senator J. King, now if I wanted to say TAPE CHANGE SB 646 because my reading of the fiscal note is that we could save \$1.4 million in the next six months and in fiscal year 1998 and then

in the twelve months there, we could save \$3.1 million. So the fiscal note on this, in my mind, would make me say that I should vote yes on this if I want to see a little more money for issues that I really care about, like day care?

SENATOR J. KING: I certainly agree with you. I think that the important thing here is that everybody is talking about being soft on crime and being tough on crime. You are tough on the right people in this one. You are tough on those that are violent and don't belong out in the community and you are giving a break to the ones that are in there and can come out, and you are saving money so that if we need money to build another prison or something or use it some other place out in the field, it is there and it certainly would help the governor quite a bit.

SENATOR LOVEJOY: I would like to explain my vote. I was to report this bill out of committee as inexpedient to legislate and the bill was tabled. I voted in the committee as inexpedient to legislate; however, in light of the amendment that will be proposed, I want you to know that I am going to change my vote, I am going to vote for the amendment in this upcoming vote, so that we can make room for the amendment. I think that a study committee is good also. Thank you.

Adopted.

Senator F. King offered a floor amendment.

5251L

Floor Amendment to SB 646-FN

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a committee to study alternative sentencing for persons convicted of drug-related offenses and nonviolent crimes.

Amend the bill by replacing all after the enacting clause with the following:

1 Study Committee Established.

I. There is established a committee to study alternative sentencing for persons convicted of drug-related offenses and nonviolent crimes.

II. The committee shall consist of the following members:

(a) Three senators, appointed by the senate president; and

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

III. The committee shall make a report of its findings, including recommendations for legislation, to the governor, the speaker of the house, the senate president, the house clerk, the senate clerk, and the state library on or before November 1, 1996.

2 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a committee to study alternative sentencing for persons convicted of drug-related offenses and nonviolent crimes.

SENATOR F. KING: There is an amendment being passed out. It is my understanding that in the committee, the original bill, there was concern about the issue of good time and its effect on sentencing. The committee members obviously didn't accept the argument that was made that the good time process that used to be available in the state prison could be made available again; however, if this state has a fiscal problem, and it certainly would appear that it does have, one of the areas that we spend

a great deal of money, is in the area of incarceration of sentences. We have to find a way to do something about that. The state cannot build, apparently can't even build one prison the way that it looks right now, which I had hoped that it might. But it is going to have to do something. The state needs to take a look at alternative sentencing. It probably was looked at before, but it needs to be looked at again. This amendment establishes a study committee that will look at alternative sentencing for persons convicted of drug related offenses and nonviolent crimes. At least 75 percent of the incarcerated inmates have either an alcohol or drug problem, we have to find a better way to deal with that. So all that we are asking you to do is accept Senator King's floor amendment. We would like to have you allow this to be studied by three senators and three House members and to report back in November, if in fact, they feel that there is a problem **TAPE INAUDIBLE**.

SENATOR JOHNSON: Senator King, beyond the money issue, would you agree that the **TAPE INAUDIBLE** the way that we are treating the prisoners now isn't working and that we have to look at other innovative ways to make that happen?

SENATOR F. KING: Yes. I believe that there are studies that will say that they, in fact, the sentences do not work, and hopefully, the committee will look at that. Definitely, unless you can deal with the root problem, those inmates that have drug problems and alcohol problems, unless you deal with those problems, you are almost assuring that they once released, will be back in the system eventually.

SENATOR JOHNSON: Thank you.

SENATOR BLAISDELL: I am going to rise in support of Senator King's motion, although it has been studied. By the way, I signed a conflict of interest statement on this so that I wouldn't participate in it. I want to just give you one story. As some of you know, I work in a drug and alcohol abuse hospital when I am not in the Senate, we had a boy, just as you were talking about, Senator King. He was nonviolent and he had a problem, the court sentenced him. He came to our hospital with a bracelet on. He was monitored, he was working for us at the time. We kept him there and they didn't incarcerate him, we didn't charge the state of New Hampshire or anybody, he is still on the payroll. He served his time, and the bracelet came off. So there are other things that you can be looking at to help people and to save money, a lot of it. That is the reason that I am on the bill. I did declare a conflict of interest, but yet, I said I would participate, because I think there's where we could save a lot of money in the state of New Hampshire, not only for the hospital that I work for, but for a lot of other hospitals. We will be doing a lot for the state of New Hampshire.

Amendment adopted.

Ordered to third reading.

Senator Colantuono in opposition to SB 646, also in opposition to floor amendment.

TAKEN OFF THE TABLE

Senator J. King moved to have **SB 545**, an act relative to the powers of city councils, taken off the table.

Adopted.

SB 545, an act relative to the powers of city councils. Judiciary Committee. Inexpedient to Legislate. Senator Wheeler for the committee.

SENATOR WHEELER: The committee voted inexpedient to legislate on this bill because it gives new power to the city councils to let them find a new enforcement. The committee felt that in Manchester's situation, that it was best that this enforcement be left to the police. Apparently, Manchester's problem is that the police never get around to doing the enforcement. We checked into it in other cities around the state who can deal with this problem through their own department and we don't feel that it would be necessary to create a whole new bureaucracy to deal with this problem. I understand that there may be a floor amendment to make this bill Manchester specific, but at least in my own mind, and some of the other Senators that I have spoken with on the committee, still don't believe that we should be creating this new bureaucracy and setting precedents. The committee would ask that you vote inexpedient to legislate on this bill, and the amendment if it gets that far.

SUBSTITUTE MOTION

Senator J. King moved to **substitute Ought to Pass for Inexpedient to Legislate.**

SENATOR J. KING: This bill was requested by the city clerk. I guess that it was once turned down and other officials of the city of Manchester decided that it was needed. What this bill actually does is it gives the clerk that does the licensing, the same power that the health department has and the fire department has, the planning board has, the building department has, the zoning board has, the housing has when it deals with ordinances or licenses which have specific rules, that is all that it does. If it does pass, and there is an amendment, by the way, Senator Wheeler, if does pass, it still has to be approved by the mayor and aldermen before it goes into effect. That is not going to happen if they don't want it. But from what I gather, now they do want it. The police have more than what they can handle, they have agreed with the bill. They did not disagree with the bill, they agreed to it and they wanted it. So I think that it is a request of where the locals are asking you to give them a little elbow room here...and that is what we should do here, give them a little elbow room. There is an amendment that will be offered later.

SENATOR GORDON: Very briefly, I will speak in opposition to the motion of ought to pass. The Judiciary Committee reviewed this and in essence, the testimony aimed from one end of the city of Manchester. The city of Manchester indicates that it has some problems doing some law enforcement activities. The testimony was that because those activities were not being given a very high priority by the police department. They apparently had decided that in the roam or scheme of things, they weren't going to put the same emphasis on those activities as perhaps they would others; therefore, they wanted to shift the responsibility away from the police and give it to the city clerk for enforcement. The bottom line is that it is going to cost the same amount of money to the city of Manchester whether it is done by the police or by someone else. What the original bill itself would have done, is to amend the law statewide for power that we give to a community for enforcement. This would enable, in essence, under this law, every community in the state to create a separate agency

for enforcing its laws other than the police in which we have established statutes. The committee felt that that was ill advised at the time. I understand that the amendment is going to make this specifically, only for the city of Manchester. But I believe that those powers aren't necessary. I don't believe that there was a cry from any other city in the state asking for the same powers or any other town in the state asking for the same powers. The committee believes that it is unnecessary. I would ask the Senate to defeat the motion of ought to pass.

SENATOR DANAIS: Obviously I rise in opposition to the motion on the floor of inexpedient to legislate and I do so for the same reason that Senator John King does. At the request of the city of Manchester, who I represent, that they felt that they needed this legislation. But besides that point, I see that this bill is a bill of local control. I mean, it gives power to local control. I see no reason why we should not let the local municipalities, the local government, do what they want to do as far as enforcing their laws as well as our laws. The city police departments or the county police or the town police departments, have specific RSAs that govern what they do. I don't think that this bill creates bureaucratic nightmare, I just think that in the city of Manchester, as well as other cities and towns in the state of New Hampshire, with the budget crunch that there is, they had to probably not hire a full contingency of policemen, therefore, priorities have been lowered and the police cannot do everything that they have to do with the amount of money that they have to spend. The city clerk, in the city of Manchester, because of that problem, wants the ability to shift the burden of responsibility from the police and let the city clerk's department do some of these administrative duties. That is what we are here for. We are here to help and to assist local control and this bill does that and the city of Manchester has requested it because they need it. There is also a question that other cities and towns do it without this legislation. Well we checked on that yesterday afternoon. To be quite frank, the city of Nashua has been trying to do this, but they are doing it haphazardly, they are doing a crummy job. The Senate legal counsel has spoken to the officials in the town of Nashua and it would be much more clear if this legislation was in place with them also. So I urge you to change your vote and vote in favor of passage of this bill. Thank you. I also have an amendment to offer at the proper time.

Question is on the substitute motion of ought to pass.

A roll call was requested by Senator Danais.

Seconded by Senator J. King.

The following Senators voted Yes: Rubens, Roberge, Blaisdell, Stawasz, Larsen, Podles, Barnes, J. King, Russman, Danais, Shaheen, Delahunty, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Lovejoy, Currier, Rodeschin, Wheeler, Pignatelli, Colantuono, Keough.

Yeas: 13 - Nays: 11

Substitute motion of ought to pass is adopted.

Senator J. King offered a floor amendment.

5241L

Floor Amendment to SB 545

Amend RSA 47:17, XVI as inserted by section 1 of the bill by replacing it with the following:

XVI. WARNINGS AND CITATIONS. To establish a procedure for the issuance of warnings and citations for the violation of health, fire, planning board, building, zoning and housing codes *and, in the case of municipalities with a population of 90,000 and over, as determined by the most recent decennial census conducted by the United States Bureau of the Census, licensing or other ordinances.*

AMENDED ANALYSIS

Section 1 of this bill allows city councils of certain municipalities to establish procedures for the issuance of warnings and citations for violations of licensing and other ordinances.

Sections 2-5 of the bill amend gender specific references in RSA 47 to be gender neutral in accordance with RSA 17-A:6.

SENATOR DANAIS: What this amendment does is it makes it specific to the city of Manchester in order to address the concerns of other members of this room, that they would be given the vicinity's powers universally throughout the state. In order to appease the opponents and to address the situation in the city of Manchester, we have put in language that in the case of municipalities with the population of 90,000 or over, that this bill would affect; therefore, it would address the concerns that were brought up by the opponents of the bill.

Floor amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Stawasz moved to have **SB 636-FN-LOCAL**, an act requiring local land use boards to prepare a checklist containing the information necessary for submitting an application to the board, taken off the table.

Adopted.

SB 636-FN-LOCAL, an act requiring local land use boards to prepare a checklist containing the information necessary for submitting an application to the board. Executive Departments and Administration Committee. Vote: 3-2. Inexpedient to legislate. Senator Larsen for the committee.

SUBSTITUTE MOTION

Senator Stawasz moved to **substitute Ought to Pass for Inexpedient to legislate.**

SENATOR STAWASZ: There is an amendment that we had not passed in the committee. It is my intention to add to this which will give them a little bit of flexibility and ask for additional things and avoid the prospect of having an extremely lengthy list as a response to this legislation.

Senator Russman moved to have **SB 636-FN-LOCAL**, an act requiring local land use boards to prepare a checklist containing the information necessary for submitting an application to the board, laid on the table.

Adopted.

LAI D ON THE TABLE

SB 636-FN-LOCAL, an act requiring local land use boards to prepare a checklist containing the information necessary for submitting an application to the board.

Senator J. King moved to have **SB 543-FN-A-LOCAL**, an act designating a portion of the business profits tax to be distributed to the cities and towns and making an appropriation therefor, taken off the table.

Motion failed.

Recess.

Out of recess.

Senator Stawasz moved to have **SB 628-LOCAL**, an act relative to authority over certain accident scenes, taken off the table.

Motion failed.

SUSPENSION OF THE RULES

Senator Stawasz moved that the Joint Rule 10-(a)(2) be suspended to the second Wednesday in March, which would be March 13, 1996.

Adopted by the necessary 2/3 vote.

TAKEN OFF THE TABLE

Senator Stawasz moved to have **SB 636-FN-LOCAL**, an act requiring local land use boards to prepare a checklist containing the information necessary for submitting an application to the board, taken off the table.

Question is on the motion of taking SB 636 off of the table.

A division vote was requested.

Yeas: 15 - Nays: 7

Motion is adopted.

SB 636-FN-LOCAL, an act requiring local land use boards to prepare a checklist containing the information necessary for submitting an application to the board. Executive Departments and Administration Committee. Inexpedient to legislate. Senator Stawasz for the committee.

SUBSTITUTE MOTION

Senator Stawasz moved to **substitute Ought to Pass for Inexpedient to Legislate.**

Adopted.

Senator Stawasz offered a floor amendment.

5261L

Floor Amendment to SB 636-FN-LOCAL

Amend RSA 676:1 as inserted by section 1 of the bill by inserting after paragraph II the following new paragraph:

III. Following the acceptance of plans, permits, plats, or applications submitted to the board in accordance with paragraph II, the local land use board shall have 30 days to request any additional studies deemed necessary due to special circumstances or complexity of the plan, permit, plat, or application. Any further request by the board after the 30 day period shall be by appeal to the local governing body of the city, town, village district, or county, which may grant the request upon good cause shown.

AMENDED ANALYSIS

This bill requires every local land board which has plans, permits, plats, or applications submitted to it for board approval to adopt a checklist which shall contain all the information necessary for a person to submit complete plans, permits, plats, and applications which the land use board shall accept, and provides a procedure for the board to request additional studies.

SENATOR STAWASZ: The floor amendment which will be here momentarily, will give the planning board 30 days after an applicant completely fulfills the requirements according to the zoning ordinance and the checklist, they already have the checklist in most towns. Once you have filled everything in, you will go forward with accepting your plan. What the amendment does is it gives the planning board the opportunity, once you have submitted everything that they think that you need, to determine if there are any other studies like hydrology studies, graphic studies because of the complexity of the plan or the complexity of the site, it allows them an additional 30 days to ask you to bring in whatever other studies that they require to review your plan for approval or denial. They also have a further out in this amendment, that if after the 30-day period, they ask for more things, they find a little later on, they still need something else, they can appeal to the local governing board, the selectmen or the aldermen to get a waiver to hold you up. This is meant to address the problem that a lot of people have in going before a planning board and finding that they can't even get their plan accepted because there are additional requirements that come up at each additional meeting that they attend and they never really actually get to the issue. Hopefully, when the amendment arrives, you can look at that and we can take our vote.

SENATOR DANAIS: Senator Stawasz, I am a little confused. In order to clarify what your amendment is saying, if I had a plan to go to the planning board, if I wanted to have an orderly transition or an orderly presentation where the planning board would have a checklist, and I would go there and abide by the checklist, and then knowing that after that checklist is completed, that they could not come back to me in the future days and say oh by the way we want you to accomplish this and that? Is that not what this bill does?

SENATOR STAWASZ: Yes, Senator Danais. What this bill does is to put you on a level playing field, so-to-speak, with the planning board. There is already a zoning ordinance in which you read and your engineers are familiar with, and you have paid him to prepare the plan, a number of copies and etceteras, in accordance to their requirements, they have gone through their list of things that they want you to submit and you think that everything is there. The way that it happens now is that each successive meeting without any limitation, can add a report, another one, and another one. You don't know when you are actually going to start the review process of your plan. This puts a time level on that, that you pass everything in, they have 30 days to see if they need anything else, to stop your clock, if not, you go forward and they can deny your plan, but at least they have to look at it.

SENATOR DANAIS: Thank you very much.

Floor amendment adopted.

SENATOR LARSEN: You will notice that the committee did not recommend the passage of this bill. This bill makes no sense. This bill is the beginning of state regulation of what is now a local issue. Planning boards in cities and towns are now empowered to review the development of their community. This bill would require a checklist which many communities already have. I called our planning board director and spoke with him. We have a checklist, most communities in this state have a checklist. But this bill tries to make a strict timetable by which the planning board has to follow dictated from Concord. There are many, many issues which come up in a city or a town's planning department, that aren't necessarily able to adhere to this strict timetable. I don't believe that it is right that we dictate from here, what local planning boards have to do. They have timetables as it is. They have been able to operate under the existing timetables and there are sometimes when there are abuses. But the majority are working well and this is an issue that needs to be resolved at the local level once again, and not from up here. In the city of Concord, not long ago, and I got this example from our planning director. The city of Concord several years ago had an issue relating to biomedical waste facilities that wanted to locate just a little north of town. The planning department and those on the planning board, didn't have enough information on a bio medical waste facility to even begin to ask the right questions. They deferred the issue for a long time, while the Department of Environmental Services looked over these things. They didn't know what kind of questions to ask them to particulate emissions, there were a lot of issues which we as volunteers in planning boards don't always know right away, to dictate a timetable is a really dangerous thing to take away local control. I urge you to defeat this bill as the committee did and be it recognized that your local planning board is the best place for looking over this. People have direct access to the planning board, they have direct access to the planning staff and that is where these issues ought to be resolved, not here in this building. Thank you. I urge your defeat of this.

Question is on ordering to third reading.

A roll call was requested by Senator Larsen.

Seconded by Senator Rodeschin.

The following Senators voted Yes: F. King, Gordon, Wheeler, Stawasz.

The following Senators voted No: Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Blaisdell, Pignatelli, Colantuono, Larsen, Podles, Barnes, J. King, Russman, Shaheen, Keough, Cohen.

Senator Danais (Rule #42).

Yeas: 4 - Nays: 18

Motion of ordering to third reading failed.

Senator Currier moved inexpedient to legislate.

The motion of inexpedient to legislate is adopted.

RESOLUTION

Senator Barnes moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

ANNOUNCEMENTS**Third Reading and Final Passage**

SB 501, repealing a requirement for keeping records of sales of pistols and revolvers and repealing provisions relative to the purchase of shot-guns and rifles in contiguous states and by nonresidents.

SB 516, an act relative to dwellings with lead paint.

SB 532, relative to the creation and recordation of groundwater management zones.

SB 534, an act requiring candidates to report when either receipts or expenditures exceed a certain amount.

SB 539-FN, an act requiring all drivers to be tested for evidence of blood alcohol and drug content if involved in a motor vehicle accident causing death.

SB 545, an act relative to the powers of city councils.

SB 547-FN-A, an act requiring the department of safety services, division of safety services, to publish the New Hampshire boaters guide and making an appropriation therefor.

SB 554-FN, requiring the department of resources and economic development, the office of state planning, Pease development authority, and the business finance authority to make annual reports on their economic development programs and allowing state credit unions to participate in the capital access program.

SB 575, an act relative to reporting requirements for candidates for local offices.

SB 610, an act relative to municipal water, gas and electric utilities.

SB 646-FN, establishing a committee to study alternative sentencing for persons convicted of drug-related offenses and nonviolent crimes.

SB 648-FN-LOCAL, an act relative to child support.

SB 662-FN, an act relative to real estate appraisers.

SB 663, an act relative to lead paint insurance coverage and lead paint risk reduction.

SB 666-FN-A an act relative to a multi-jurisdictional fuel tax agreement.

HB 1627, authorizing the Lamprey Regional Cooperative to issue bonds and notes.

Senator Barnes moved that the Senate be in recess until Wednesday, March 20, 1996 at 10:00 a.m. for the sole purpose of receiving House messages, referring bills to committee, scheduling hearings and Enrolled Bill Reports.

Adopted.

Recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 1100, relative to the cutting of timber.

HB 1141, relative to youth employment.

HB 1143, increasing the civil penalties for violations of certain labor statutes and authorizing the commissioner of labor to seek injunctions against noncomplying employers or owners.

HB 1193-FN-L, relative to department of revenue administration reporting requirements relative to a yield tax on timber, establishing an exception from RSA 541-A:16, I(b) for tax filing forms, and removing a budget footnote.

HB 1220-FN-L, providing that the state shall apply for and utilize monies from the Goals 2000 - Educate America Act.

HB 1229-FN-A, allowing owners of privately owned airports to receive partial state reimbursement grants for local property taxes paid on certain areas of such airports and making an appropriation therefor.

HB 1410-L, relative to special revenue funds.

HB 1450-FN, relative to postsecondary educational assistance for members of the New Hampshire national guard.

HB 1513, relative to filings and records held by the secretary of state.

HB 1575, extending the study committee considering the adoption of a constitutional amendment allowing a yield tax on sand, gravel, and similar materials and relative to taxation of sand, gravel, and similar materials for the tax year ending March 31, 1998.

HB 1590-FN, relative to the workers' compensation administration fund.

HB 1612-FN-L, requiring the state to transfer ownership of land currently leased from the state by Rockingham county for use as a parking lot for the Rockingham county courthouse to Rockingham county.

HB 1630-FN-L, establishing a new property leasing program for land in the Lake Francis impoundment area and relative to the New Hampshire heritage trail.

RESOLUTION

INTRODUCTION OF HOUSE BILLS

Senator Barnes RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 1100 - 1630, shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 1100, relative to the cutting of timber. Environment Committee.

HB 1141, relative to youth employment. Public Institutions, Health and Human Services Committee.

HB 1143, increasing the civil penalties for violations of certain labor statutes and authorizing the commissioner of labor to seek injunctions against noncomplying employers or owners. Insurance Committee.

HB 1193-FN-L, relative to department of revenue administration reporting requirements relative to a yield tax on timber, establishing an exception from RSA 541-A:16, I(b) for tax filing forms, and removing a budget footnote. Ways and Means Committee.

HB 1220-FN-L, providing that the state shall apply for and utilize moneys from the Goals 2000 - Educate America Act. Education Committee.

HB 1229-FN-A, allowing owners of privately owned airports to receive partial state reimbursement grants for local property taxes paid on certain areas of such airports and making an appropriation therefor. Ways and Means Committee.

HB 1410-L, relative to special revenue funds. Ways and Means Committee.

HB 1450-FN, relative to postsecondary educational assistance for members of the New Hampshire national guard. Education Committee.

HB 1513, relative to filings and records held by the secretary of state. Executive Departments and Administration Committee.

HB 1575, extending the study committee considering the adoption of a constitutional amendment allowing a yield tax on sand, gravel, and similar materials and relative to taxation of sand, gravel, and similar materials for the tax year ending March 31, 1998. Finance Committee.

HB 1590-FN, relative to the workers' compensation administration fund. Insurance Committee.

HB 1612-FN-L, requiring the state to transfer ownership of land currently leased from the state by Rockingham county for use as a parking lot for the Rockingham county courthouse to Rockingham county. Capital Budget Committee.

HB 1630-FN-L, establishing a new property leasing program for land in the Lake Francis impoundment area and relative to the New Hampshire heritage trail. Fish and Game/Recreation Committee.

Adopted.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 1105, relative to hunting while intoxicated and implied consent to administer alcohol or controlled drug tests, and permitting evidence of the refusal of consent in certain legal proceedings.

HB 1145-FN-L, authorizing municipalities to charge fees for certain administrative costs connected with excavation permits.

HB 1146, relative to school bus safety and exempting certain buses from the road toll.

HB 1163-FN, requiring archery license applicants to complete a mandatory bow hunter education course.

HB 1164, making it illegal to train dogs to hunt bobcat.

HB 1169, authorizing the department of health and human services to impose administrative fines on certain nursing homes.

HB 1175, repealing the law requiring general court members to list emergency interim successors, repealing the law establishing a joint committee on implementation of reorganization relative to the executive branch, and allowing the governor to appoint a designee on the local government advisory committee.

HB 1207, relative to coinsurance payments for covered services.

HB 1211, prohibiting the denial of insurance coverage based on the perception or possibility that the prospective insured is a victim of domestic abuse or violence.

HB 1221, relative to operating emergency vehicles while intoxicated.

HB 1222, establishing a council on applied technology and innovation.

HB 1233, establishing a 55 mile per hour speed limit for OHRVs traveling on the frozen surface of Turtle Pond, also known as Turtle Town Pond in the city of Concord and establishing joint responsibility between the city of Concord and the state of New Hampshire for the enforcement of such speed limit.

HB 1282, allowing certain liquor licensees to conduct beverage, liquor, or wine tastings on licensed premises.

HB 1289-L, relative to restrictions on waters used as a public water supply.

HB 1300, relative to the enforcement of zoning regulations.

HB 1315, relative to the use of certain products containing phosphates.

HB 1329, relative to the regulation of massage therapists.

HB 1400, relative to liquor licensing requirements for veterans' clubs and social clubs.

HB 1415, relative to the confidentiality and maintenance of adoption records.

HB 1427, relative to termination of parental rights for a parent incarcerated for capital murder or first or second degree murder.

HB 1431, requiring individual health insurance policies to cover nonprescription enteral formulas.

HB 1477, relative to the penalties for a person driving while intoxicated or under the influence of drugs.

HB 1525, relative to damages in suits brought by administrators of an estate.

HB 1545, recognizing the validity of faxed search and arrest warrants and domestic violence orders.

HB 1550, relative to a lobster management plan and relative to lobster and crab licenses.

HB 1558-FN-L, establishing a study committee on taxation of real estate which does not receive municipal services.

HB 1572-L, recodifying and revising the solid waste laws.

HB 1594, relative to commercial driver licensing.

HB 1611-FN, establishing a sunrise program.

HB 1138, requesting the judicial council to study issues regarding jury duty.

HB 1168-L, relative to maintaining local control over certain franchises and allowing municipalities to coordinate franchising authorities.

HB 1173-FN-L, relative to juvenile court proceedings and victim's rights in the context of delinquency proceedings.

HB 1208, requiring consumer credit reporting agencies collecting data on a national basis to provide a consumer with one free consumer report annually.

HB 1212, relative to the powers of trustees under the Uniform Trustees' Powers Act.

HB 1270-L, allowing school administrative units to establish advisory budget or finance committees under the municipal budget law.

HB 1291, relative to vandalism and criminal mischief.

HB 1303, relative to the rulemaking authority of the commissioner of transportation.

HB 1323, establishing a committee to study the issue of the use, and disposal of sludge or septage, and requiring notification to certain persons before the application of sludge or septage.

HB 1325, relative to the emissions reduction trading programs and establishing a voluntary pilot program on enhanced environmental performance agreements.

HB 1331-FN, relative to clarifying certain provisions under the workers' compensation law.

HB 1345, relative to the definition of "unemployment" for the purposes of unemployment compensation, the weekly benefit amount schedule, and designating a portion of the employer contribution to the unemployment compensation fund.

HB 1369, adding new requirements for appeals processes and appeals board membership relating to nonprofit health service corporations and health maintenance organizations.

HB 1371, relative to the authority of the director of forests and lands to enter certain private lands.

HB 1375, relative to penalties under the workers' compensation law.

HB 1474, relative to legal name changes by individuals.

HB 1498-FN-L, requiring the commissioner of administrative services to purchase electricity through the competitive bidding process.

HB 1499-FN, making the board of nursing administratively attached to the department of health and human services and removing the oversight authority of the commissioner of health and human services.

HB 1524, relative to operating a motor vehicle with a suspended license and causing bodily injury.

HB 1541, relative to employee leasing companies and temporary help services.

HB 1543, relative to the confidentiality of records and information collected pursuant to the registration of sexual offenders.

HB 1546, promoting boating safety awareness.

HB 1547, relative to discovery in criminal cases.

HB 1548, relative to county attorneys.

HB 1549, relative to the admissibility of a prior sexual assault into evidence in certain prosecutions.

HB 1565-FN, changing the age of qualification for services in certain cases under RSA 169-D for children in need of services.

HB 1581, prohibiting the operation of a motorboat during license suspension or revocation for DWI and prohibiting the operation of a motor vehicle if a person has been convicted of boating while intoxicated.

HB 1606, relative to child support collection.

HB 1620, relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas.

HB 1122, modifying the term "compact area" relative to the use of firearms and fireworks.

HB 1170, prohibiting a sworn law enforcement officer from holding a private detective's license.

HB 1192, relative to the definition of developed waterfront property.

HB 1210, amending the workers' compensation law to provide an exemption from coverage requirements for nonresident employees.

HB 1267, relative to retail licenses to sell pistols and revolvers.

HB 1274-FN, relative to rights-of-way to certain bodies of water.

HB 1286, relative to the suspension and expulsion of pupils.

HB 1298, relative to driver's licenses and motor vehicle registrations for members of the armed forces and their spouses.

HB 1307, relative to the interstate emergency management compact.

HB 1311, requiring banks to cash state financial assistance benefit checks.

HB 1332-FN, requiring financial institutions to display certain information on fees, charges, and available products in their lobbies.

HB 1352, relative to insurance coverage during pregnancy and delivery and the postpartum period.

HB 1357, relative to court decrees in title disputes.

HB 1364, relative to the annual independent audit of health insurers.

HB 1379, to require financial filings by county and local party committees.

HB 1429, establishing a study committee on interstate banking and branching.

HB 1436, relative to charitable organizations.

HB 1459, relative to disclosure of information by insurers.

HB 1463-L, giving municipalities bonding authority for economic development purposes in certain situations.

HB 1472, establishing a committee to study ways to enhance the postsecondary education system so as to attract European businesses.

HB 1476, delaying the startup of the emissions testing program and requiring the commissioner of the department of safety to study and recommend statutory changes to reflect federal changes in the motor vehicle inspection and maintenance emissions testing program.

HB 1485, prohibiting insurance companies from mandating that automobile repairs or automobile glass replacements be made at specific repair or replacement shops.

HB 1489, prohibiting gender-based price discrimination.

HB 1551, establishing a committee to study the functions and duties of the New Hampshire retirement system actuary.

HB 1582, authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures.

HB 1599-FN, postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years.

HB 1609, relative to police dogs.

HB 1610-FN-L, relative to school administrative units.

HB 1613, prohibiting and eliminating exclusivity contracts between health care insurers and health care providers.

HB 1623-L, authorizing school districts to establish revolving funds to finance certain programs, and relative to the printed materials revolving fund under the department of education, and increasing the appropriation therefor.

HCR 27, urging Congress to reauthorize the Safe Drinking Water Act.

HJR 21, urging Congress to abolish the federal Department of Education.

HJR 22, urging the New Hampshire congressional delegation to review the significant economic impact of the implementation of the Silvio O. Conte National Fish and Wildlife Refuge.

HJR 24, encouraging the Department of the Navy to name a vessel the U.S.S. New Hampshire.

HJR 25, urging the federal Energy Regulatory Commission, the United States Environmental Protection Agency, the Council on Environmental Quality, the United States Congress, and the President of the United States to implement increased competition in the electric utility industry in a manner that furthers environmental improvement and promotes full and fair competition including equitable and appropriate environmental regulation for all electricity generators.

RESOLUTION

INTRODUCTION OF HOUSE BILLS

Senator Barnes RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 1105 - HJR 25, shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 1105, relative to hunting while intoxicated and implied consent to administer alcohol or controlled drug tests, and permitting evidence of the refusal of consent in certain legal proceedings. Fish and Game/Recreation Committee.

HB 1122, modifying the term "compact area" relative to the use of firearms and fireworks. Executive Departments and Administration Committee.

HB 1138, requesting the judicial council to study issues regarding jury duty. Judiciary Committee.

HB 1145-FN-L, authorizing municipalities to charge fees for certain administrative costs connected with excavation permits. Environment Committee.

HB 1146, relative to school bus safety and exempting certain buses from the road toll. Transportation Committee.

HB 1163-FN, requiring archery license applicants to complete a mandatory bow hunter education course. Fish and Game/Recreation Committee.

HB 1164, making it illegal to train dogs to hunt bobcat. Fish and Game/Recreation Committee.

HB 1168-L, relative to maintaining local control over certain franchises and allowing municipalities to coordinate franchising authorities. Public Affairs Committee.

HB 1169, authorizing the department of health and human services to impose administrative fines on certain nursing homes. Public Institutions, Health and Human Services Committee.

HB 1170, prohibiting a sworn law enforcement officer from holding a private detective's license. Executive Departments and Administration Committee.

HB 1173-FN-L, relative to juvenile court proceedings and victim's rights in the context of delinquency proceedings. Judiciary Committee.

HB 1175, repealing the law requiring general court members to list emergency interim successors, repealing the law establishing a joint committee on implementation of reorganization relative to the executive branch, and allowing the governor to appoint a designee on the local government advisory committee. Executive Departments and Administration Committee.

HB 1192, relative to the definition of developed waterfront property. Environment Committee.

HB 1207, relative to coinsurance payments for covered services. Insurance Committee.

HB 1208, requiring consumer credit reporting agencies collecting data on a national basis to provide a consumer with one free consumer report annually. Banks Committee.

HB 1210, amending the workers' compensation law to provide an exemption from coverage requirements for nonresident employees. Insurance Committee.

HB 1211, prohibiting the denial of insurance coverage based on the perception or possibility that the prospective insured is a victim of domestic abuse or violence. Insurance Committee.

HB 1212, relative to the powers of trustees under the Uniform Trustees' Powers Act. Banks Committee.

HB 1221, relative to operating emergency vehicles while intoxicated. Judiciary Committee.

HB 1222, establishing a council on applied technology and innovation. Executive Departments and Administration Committee.

HB 1233, establishing a 55 mile per hour speed limit for OHRVs traveling on the frozen surface of Turtle Pond, also known as Turtle Town Pond in the city of Concord and establishing joint responsibility between the city of Concord and the state of New Hampshire for the enforcement of such speed limit. Transportation Committee.

HB 1267, relative to retail licenses to sell pistols and revolvers. Executive Departments and Administration Committee.

HB 1270-L, allowing school administrative units to establish advisory budget or finance committees under the municipal budget law. Education Committee.

HB 1274-FN, relative to rights-of-way to certain bodies of water. Environment Committee.

HB 1282, allowing certain liquor licensees to conduct beverage, liquor, or wine tastings on licensed premises. Ways and Means Committee.

HB 1286, relative to the suspension and expulsion of pupils. Education Committee.

HB 1289-L, relative to restrictions on waters used as a public water supply. Environment Committee.

HB 1291, relative to vandalism and criminal mischief. Judiciary Committee.

HB 1298, relative to driver's licenses and motor vehicle registrations for members of the armed forces and their spouses. Transportation Committee.

HB 1300, relative to the enforcement of zoning regulations. Economic Development Committee.

HB 1303, relative to the rulemaking authority of the commissioner of transportation. Executive Departments and Administration Committee.

HB 1307, relative to the interstate emergency management compact. Interstate Cooperation Committee.

HB 1311, requiring banks to cash state financial assistance benefit checks. Banks Committee.

HB 1315, relative to the use of certain products containing phosphates. Environment Committee.

HB 1323, establishing a committee to study the issue of the use, and disposal of sludge or septage, and requiring notification to certain persons before the application of sludge or septage. Environment Committee.

HB 1325, relative to the emissions reduction trading programs and establishing a voluntary pilot program on enhanced environmental performance agreements. Environment Committee.

HB 1329, relative to the regulation of massage therapists. Executive Departments and Administration Committee.

HB 1331-FN, relative to clarifying certain provisions under the workers' compensation law. Insurance Committee.

HB 1332-FN, requiring financial institutions to display certain information on fees, charges, and available products in their lobbies. Banks Committee.

HB 1345, relative to the definition of "unemployment" for the purposes of unemployment compensation, the weekly benefit amount schedule, and designating a portion of the employer contribution to the unemployment compensation fund. Insurance Committee.

HB 1352, relative to insurance coverage during pregnancy and delivery and the postpartum period. Insurance Committee.

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HB 1369, adding new requirements for appeals processes and appeals board membership relating to nonprofit health service corporations and health maintenance organizations. Insurance Committee.

HB 1371, relative to the authority of the director of forests and lands to enter certain private lands. Fish and Game/Recreation Committee.

HB 1375, relative to penalties under the workers' compensation law. Insurance Committee.

HB 1379, to require financial filings by county and local party committees. Public Affairs Committee.

HB 1400, relative to liquor licensing requirements for veterans' clubs and social clubs. Ways and Means Committee.

HB 1415, relative to the confidentiality and maintenance of adoption records. Judiciary Committee.

HB 1427, relative to termination of parental rights for a parent incarcerated for capital murder or first or second degree murder. Judiciary Committee.

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HB 1477, relative to the penalties for a person driving while intoxicated or under the influence of drugs. Transportation Committee.

HB 1485, prohibiting insurance companies from mandating that automobile repairs or automobile glass replacements be made at specific repair or replacement shops. Insurance Committee.

HB 1489, prohibiting gender-based price discrimination. Public Affairs Committee.

HB 1498-FN-L, requiring the commissioner of administrative services to purchase electricity through the competitive bidding process. Executive Departments and Administration Committee.

HB 1499-FN, making the board of nursing administratively attached to the department of health and human services and removing the oversight authority of the commissioner of health and human services. Public Institutions, Health and Human Services Committee.

HB 1524, relative to operating a motor vehicle with a suspended license and causing bodily injury. Judiciary Committee.

HB 1525, relative to damages in suits brought by administrators of an estate. Judiciary Committee.

HB 1541, relative to employee leasing companies and temporary help services. Insurance Committee.

HB 1543, relative to the confidentiality of records and information collected pursuant to the registration of sexual offenders. Judiciary Committee.

HB 1545, recognizing the validity of faxed search and arrest warrants and domestic violence orders. Judiciary Committee.

HB 1546, promoting boating safety awareness. Transportation Committee.

HB 1547, relative to discovery in criminal cases. Judiciary Committee.

HB 1548, relative to county attorneys. Judiciary Committee.

HB 1549, relative to the admissibility of a prior sexual assault into evidence in certain prosecutions. Judiciary Committee.

HB 1550, relative to a lobster management plan and relative to lobster and crab licenses. Fish and Game/Recreation Committee.

HB 1551, establishing a committee to study the functions and duties of the New Hampshire retirement system actuary. Insurance Committee.

HB 1558-FN-L, establishing a study committee on taxation of real estate which does not receive municipal services. Ways and Means Committee.

HB 1565-FN, changing the age of qualification for services in certain cases under RSA 169-D for children in need of services. Public Institutions, Health and Human Services Committee.

HB 1572-L, recodifying and revising the solid waste laws. Environment Committee.

HB 1581, prohibiting the operation of a motorboat during license suspension or revocation for DWI and prohibiting the operation of a motor vehicle if a person has been convicted of boating while intoxicated. Transportation Committee.

HB 1582, authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures. Environment Committee.

HB 1594, relative to commercial driver licensing. Transportation Committee.

HB 1599-FN, postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years. Environment Committee.

HB 1606, relative to child support collection. Judiciary Committee.

HB 1609, relative to police dogs. Fish and Game/Recreation Committee.

HB 1610-FN-L, relative to school administrative units. Education Committee.

HB 1611-FN, establishing a sunrise program. Executive Departments and Administration Committee.

HB 1613, prohibiting and eliminating exclusivity contracts between health care insurers and health care providers. Insurance Committee.

HB 1620, relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas. Fish and Game/Recreation Committee.

HB 1623-L, authorizing school districts to establish revolving funds to finance certain programs, and relative to the printed materials revolving fund under the department of education, and increasing the appropriation therefor. Education Committee.

HCR 27, urging Congress to reauthorize the Safe Drinking Water Act. Environment Committee.

HJR 21, urging Congress to abolish the federal Department of Education. Education Committee.

HJR 22, urging the New Hampshire congressional delegation to review the significant economic impact of the implementation of the Silvio O. Conte National Fish and Wildlife Refuge. Environment Committee.

HJR 24, encouraging the Department of the Navy to name a vessel the U.S.S. New Hampshire. Transportation Committee.

HJR 25, urging the federal Energy Regulatory Commission, the United States Environmental Protection Agency, the Council on Environmental Quality, the United States Congress, and the President of the United States to implement increased competition in the electric utility industry in a manner that furthers environmental improvement and promotes full and fair competition including equitable and appropriate environmental regulation for all electricity generators. Executive Departments and Administration Committee

RESOLUTION

Senator J. King moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Wednesday, March 20, 1996 at 1:00 p.m.

Adopted.

Adjournment.

March 20, 1996

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

There are only two days each year of perfect balance. Today is one of them. Today is the vernal equinox - one of only two twenty-four hour periods during which the minutes of daylight and the minutes of darkness are almost exactly equal. On all other days of the year, there is either more of one or more of the other. Not today. As our leaders, your job is to struggle together to find the right balance for us. May you succeed more than twice each year.

Lord of the day and Lord of the night, guide each of us today into lives and actions of equinox, of balance. Help these our leaders to find and follow the vital balance between too much government and not enough; between taxes too high and taxes too low, between individual liberty and corporate responsibility, and between personal convictions and the common good, for You remind us today that balance is essential in more than just the budget. Amen

Senator Stawasz led the Pledge of Allegiance.

Recess.

Senator Barnes in the Chair.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 475, enabling municipalities to create regional transit districts.

HB 1627, authorizing the Lamprey regional cooperative to issue bonds and notes.

SB 133, establishing a pollution prevention program in the department of environmental services and making an appropriation therefor.

Senator Currier moved adoption.

Adopted.

Recess.

Out of recess.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 631, extending the reporting date of the retail wheeling and electric utility restructuring committee.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 631, extending the reporting date of the retail wheeling and electric utility restructuring committee.

Senator Rodeschin moved concurrence.

Adopted.

MOTION TO VACATE

Senator Rodeschin moved to vacate **HB 547**, establishing a deferred compensation plan for volunteer firefighters, from the Executive Departments and Administration Committee to the Insurance Committee.

Adopted.

HB 547 is vacated to the Insurance Committee.

MOTION TO VACATE

Senator Rodeschin moved to vacate **HB 1306**, exempting certain outpatient facilities under the licensure law, from the Executive Departments and Administration Committee to the Insurance Committee.

Adopted.

HB 1306 is vacated to the Insurance Committee.

COMMITTEE REPORTS

HB 1266, an act relative to disclosure of fees charged by owners and operators of electronic customer service terminals for use of such terminals. Banks Committee. Vote: 6-0. Ought to pass. Senator Russman for the committee.

SENATOR RUSSMAN: HB 1266 is a straightforward bill that requires disclosure of fees charged for the use of electronic customer service terminals what we all know as ATM machines. This bill will require the owners and operators of such terminals to clearly and conspicuously post a sign on the terminal, in clear view, for the consumer or to have it displayed electronically during the course of the consumer's transaction in such a manner that it could be canceled without incurring the fee. The bill states that if the owners and operators are not disclosed in these terms, they shall not charge a fee. The Banking Committee urges its passage unanimously.

Adopted.

Ordered to third reading.

SB 518, an act relative to financial liability of the university of New Hampshire for a company's default on matching funds obligations for the industrial research center. Capital Budget Committee. Vote: 7-0. Ought to pass with amendment. Senator Shaheen for the committee.

5352L

Amendment to SB 518

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the industrial center and the financial liability
of the state for a company's default on matching fund
obligations, authorizing the assessment of fees
on certain projects, and the disposition of
equipment purchased with state funds.

Amend the bill by replacing all after the enacting clause with the following:

1 New Sections; University Financial Exposure; Default on Company Portion of Matching Funds; Equipment Purchases. Amend RSA 187-A by inserting after section 33 the following new sections:

187-A:33-a Company Default on Matching Funds. In the event that a company defaults on all or a portion of its matching obligations, the state's obligated pro rata portion of the project costs incurred will still be paid to the university to minimize its losses for the work that has already been completed. The university shall notify the state within 45 days of the time a company's matching portion payment has not been received when due.

187-A:33-b Fees. The industrial research center may assess fees on the business or industry involved with a project of up to 5 percent of the total cost of the project under RSA 187-A:31. The center shall reimburse the university of New Hampshire or Dartmouth College for its administrative expenses incurred out of these fees.

187-A:33-c Equipment Purchases. Any center project which includes the purchase of equipment shall contain a provision that allows either the company, the university of New Hampshire, or Dartmouth College to retain possession of such equipment when the project is completed and the company has paid its matching share in full. Final disposition of equipment shall be agreed to by the company and the center and approved by the oversight committee in advance of a project starting date. A company which purchases equipment deemed necessary to the conduct of the project may count the purchase price as part of its matching fund requirement.

2 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

(1) Provides that, if a company defaults on all or a portion of its matching funds obligations, the state's obligated portion of the project costs will still be paid to the university to minimize its losses for the work that has already been completed.

(2) Authorizes the industrial research center to assess fees on the business or industry involved with a project.

(3) Regulates the disposition of equipment purchased with state funds.

SENATOR SHAHEEN: SB 518 amends the legislation that originally created the industrial research center. It does three things. It provides that if a company defaults on its share of a project, that the state will still pay its prorated shares so that the university is not stuck with the entire amount, since this is a joint venture between the state and the university. It also authorizes the IRC to access fees of up to five percent for administrative costs of the project from the company. It allows for the disposition of equipment that is used in a given project to be taken over either by the university, the center or Dartmouth College, depending on who is involved in the project and depending upon whether it has been approved by the Oversight Committee. The committee voted unanimously ought to pass on the bill as amended. I urge the Senate to support it.

Amendment adopted.

Ordered to third reading.

SB 561-A, an act making a supplemental appropriation for capital improvements to the university system of New Hampshire for Lamson library at Plymouth state college and for Pettee Hall at the university of New Hampshire. Capital Budget Committee. Vote: 7-0. Ought to pass with amendment. Senator Gordon for the committee.

5351L

Amendment to SB 561-A

Amend the title of the bill by replacing it with the following:

AN ACT

making a supplemental appropriation for capital improvements
to the university system of New Hampshire for
Lamson library at Plymouth state college.

Amend the bill by replacing all after the enacting clause with the following:

1 Supplemental; Appropriation; University System of New Hampshire. The sum of \$9,300,000 is hereby appropriated to the university system of New Hampshire for the Lamson library renovation and expansion at Plymouth State College.

2 Bonds Authorized. To provide funds for the appropriation of state funds made in section 1 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$9,300,000 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The payment of principal and interest on bonds and notes issued for the project in section 1 shall be made when due from the general funds of the state.

3 Expenditures; University System of New Hampshire. The appropriation made for the purposes indicated in section 1 and the sums available for this project shall be subject to the conditions outlined in 1995, 309:6 and 10.

4 Effective Date. This act shall take effect July 1, 1996.

AMENDED ANALYSIS

This bill makes a supplemental appropriation for capital improvements to the university system of New Hampshire for Lamson library at Plymouth state college.

SENATOR GORDON: Last week Plymouth State College celebrated its 125 anniversary. What began as a small normal school, dedicated to training New Hampshire teachers has grown into a well established college with a broad curriculum and a diverse student body. While the campus has been improved over the years, the Lamson Library needs renovation. The student body has increased by over 1500 students since the building was constructed in the 1960s. The library serves as the central nervous system for Plymouth State College and is inadequate at this time, both in size and in the type and quality of services which it is able to provide. This bill appropriates \$9.3 million for the renovation of the Lamson Library in Plymouth State College. This is the number one capital improvement priority of the university system. The library not only serves the college, it also serves as part of the feeder system for the entire library system in the state of New Hampshire. As you know, we had included the Lamson Library in the capital budget last year, and in the course of the Committee of Conference, the Lamson Library as well as other significant projects were left out. If we approve this appropriation for the Lamson Library, our total capital expenditures will be less then we authorized last year for this biennium. The amendment to this bill deletes the \$3 million from Pettee Hall at the University of New Hampshire. The committee asks you to support this bill. Thank you.

Amendment adopted.

Ordered to third reading.

SB 593-FN-A, an act authorizing a study of the feasibility of reconstructing New Hampshire Route 125 from the Massachusetts state line to Rochester, New Hampshire, and making an appropriation therefor. Capital Budget Committee. Vote: 6-0. Ought to pass with amendment. Senator Keough for the committee.

5355L

Amendment to SB 593-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to New Hampshire Route 125.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; New Hampshire Route 125. Amend RSA 240:3 by inserting after paragraph X the following new paragraph:

XI. In future federal fiscal years:

(a) NH 125	Rochester	Reconstruct NH 125 from the Massachusetts state line to Rochester
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2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill inserts the reconstruction of certain portions of NH Route 125 into the 10-year highway plan for future fiscal years.

SENATOR KEOUGH: The committee discussed SB 593 at some length and it was the view of the committee that the feasibility study of reconstructing route 125 is certainly a worthy project; however, the committee objected to appropriating \$150,000 from the highway fund to fund this project, because that would have the effect of placing this at the front of the list with competing projects from the use of highway fund monies or for betterment projects. So what the committee chose to do, is to amend the bill. What the amendment does, is it places this project in the 10-year plan for funding in future years. We certainly hope that the Department of Transportation will give this a high priority in its listing of projects for the 10-year plan. Thank you.

Amendment adopted.

Ordered to third reading.

HB 1126-FN, an act relative to the comprehensive shoreland protection act. Environment Committee. Vote: 4-0. Ought to pass. Senator Johnson for the committee.

SENATOR JOHNSON: HB 1126 makes technical adjustments and clarifies language at the shoreland protection act which will give the Department of Environmental Services more effective tools at protecting the states shorelands. Since this legislation is mostly housekeeping, there should be no fiscal impact on the state. The committee recommends this bill as ought to pass.

Recess.

Out of recess.

Adopted.

Ordered to third reading.

HB 1434, an act establishing a committee to study the issues surrounding the definition of "facility" for the purposes of eligibility for property tax exemptions for water and air pollution control facilities. Environment Committee. Vote: 4-0. Ought to pass. Senator F. King for the committee.

SENATOR F. KING: HB 1434 creates a seven-member study committee for the purpose of rewriting the definition of "facility" for the purposes of determining eligibility for property tax exemptions for water and air pollution facilities. Testimony suggested that this definition has become murky in the recent years as the result of technological advancements. There is a definite need for additional direction from the legislature in this area. The committee recommends unanimously, this bill as ought to pass.

Adopted.

Senator Russman offered a floor amendment.

5376L

Floor Amendment to HB 1434-LOCAL

Amend section 1 of the bill by replacing all after the introductory paragraph with the following:

I. Three house members, appointed by the speaker of the house.

II. Three senators, appointed by the senate president.

SENATOR RUSSMAN: This is a relatively simple amendment. It changes the language that the House sent over to us and makes it three House members and three Senators, so that it has some parity with the House in terms of the makeup of the committee. So I would urge you to support the amendment which will make us three Senators and three House members, then I will ask the volunteers to serve on this committee.

Floor amendment adopted.

Ordered to third reading.

HB 1619-A, an act authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River. Environment Committee. Vote: 4-0. Ought to pass with amendment. Senator Russman for the committee.

5363L

Amendment to HB 1619-A

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River,
authorizing the department of health and human services
to reroof 4 buildings, extending the lapse date on the
Plaistow district court design, relative to refunding
bonds and credit arrangements for state notes,
and relative to disaster assistance and
making an appropriation therefor.

Amend the bill by replacing all after section 3 with the following:

4 Additional Roof Included in Appropriation. Amend RSA 1993, 359:1, V(c)(2) to read as follows:

2. Reroof [3] 4 buildings-YDC 110,000

5 Lapse Date Extension. Notwithstanding RSA 9:18 the appropriation made to the department of administrative services, division of plant and

property management, bureau of court facilities for the Plaistow district court design in 1993, 359:1, II, B, 2 as amended by 1994, 171:1 shall not lapse until June 30, 1998.

6 Refunding Bonds. RSA 6-A:10 is repealed and reenacted to read as follows:

6-A:10 Refunding Bonds. The governor and council may authorize the issuance of refunding bonds in order to pay, at maturity or upon earlier redemption or acceleration, all or part of any issue of bonds then outstanding that were issued by the state or with a direct state guarantee; provided, however, that unless the governor and council specifically provide otherwise no such bonds shall be issued unless the treasurer determines that the present value, discounted at such rate as the treasurer deems appropriate, of the principal and interest payments on the refunding bonds is less than the present value, discounted at the same rate, of the principal and interest payments on the bonds to be refunded. The proceeds of such refunding bonds may be used to pay the principal of the refunded bonds, any redemption premium thereon, all or part of the interest coming due on or prior to the date or dates on which the refunded bonds are paid, and the costs of issuing and marketing the refunding bonds. The issue of refunding bonds shall be subject to the same requirements and provisions of law as would then be applicable to the issue of the bonds being refunded, except as provided in this section. The proceeds of refunding bonds, exclusive of any amounts used to pay costs of issuing and marketing the refunding bonds, shall be held in a separate fund and in trust until they are applied to pay bonds. While such proceeds are held in trust they may be invested in accordance with RSA 6:7 and RSA 6:8 and the income derived from such investment may be expended by the treasurer to pay the principal of, redemption premium if any, and interest on the refunded bonds until they are paid.

7 Termination of Guarantee Authority. Amend RSA 162-I:9-a, IV to read as follows:

IV. The hearing required by this section may be held and the findings and determinations so required may be made in conjunction with the proceedings required by RSA 162-I:9. ***No guarantee shall be awarded under this section unless the hearing and proceedings so required are completed not later than June 30, 1996.***

8 Credit Arrangements for State Notes. Amend RSA 6:13, III to read as follows:

III. The treasurer, when authorized by the governor and council, may enter into agreements with banks or other financial institutions, within or without the state, in the form of lines ***or letters*** of credit or other banking arrangements in connection with any indebtedness incurred under this section ***or RSA 6-A:4***. The agreement may include covenants and provisions for protecting and enforcing the rights, security and remedies of the lenders as, in the discretion of the treasurer, may be reasonable and proper and not in violation of law. Notes issued under this section ***or RSA 6-A:4*** shall bear interest at such rate or rates as the treasurer may deem proper, including rates variable from time to time as determined by any index, banker's loan rate or other method specified in any such agreement.

9 Appropriation. The sum of \$327,699 for the fiscal year ending June 30, 1996, is hereby appropriated to the office of emergency management to provide assistance for damages sustained from excessive rain, highwinds, and flooding in Grafton county and Coos county in the fall of 1995. Said appropriation shall be a charge against the highway fund.

10 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

(1) Refinances a sum of money owed to the Army Corp of Engineers for the dredging of the Portsmouth Harbor and the Piscataqua River.

(2) Authorizes the department of health and human services to use money appropriated to reroof 4 buildings.

(3) Extends the lapse date on an appropriation for the Plaistow district court design.

(4) Clarifies certain refunding bond provisions.

SENATOR RUSSMAN: This bill does a lot for everybody. It kind of took on a life of its own in terms of amendments. Basically, it started off allowing us to refinance for the dredging of Portsmouth Harbor from 9.25 percent down to 6 percent, which will save \$2 million. Then we decided that there were some other things that needed to be done. We needed to reroof four buildings at YDC for \$110,000, section 4. We had to extend the lapse date on an appropriation for the Plaistow District Court, section 5. We also wanted to clarify certain refunding provisions for the state, section 6. Terminate the bonding for James River which would expire, which they did not use, it was \$25 million which will clear that up. It also would allow the statutes regarding credit arrangements with state notes providing the treasurer to issue letters of credit. Finally, it requests the governor's office, it will appropriate \$327,000 to the office of emergency management and repairs of the flooding in the north country in the fall of 1995, it will be charged against the highway funds. So we would urge support of this particular bill.

SENATOR SHAHEEN: Senator Russman, can you tell me if the reroofing on those four buildings at YDC were part of the Capital Budget request in the last session or if this is a new project that has come up?

SENATOR RUSSMAN: I believe that it is a new project that it has come up, they have to be reroofed.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

SB 581-LOCAL, an act relative to the Derry local exit on I-93. Capital Budget Committee. Vote: 7-0. Ought to pass with amendment. Senator Fraser for the committee.

5361L

Amendment to SB 581-LOCAL

Amend the bill by replacing all after the enacting clause with the following:

1 New Subparagraph; Derry Local Exit; Future Fiscal Years. Amend RSA 240:2, XI by inserting after subparagraph (a) the following new subparagraph:

(b) I-93	Derry-Londonderry	New exit between exit 4 and exit 5.
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2 Repeal. 1987, 399:30, relative to the Derry local exit, is repealed.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill inserts the new Derry exit into the 10-year highway plan for future fiscal years.

SENATOR FRASER: I apologize to my colleagues for not being here when this bill came up earlier. What SB 581 does is to place the project for the interchange down at exit 4 and 5 in Derry into the 10-year plan. Mr.

President, originally there was legislation passed where the state of New Hampshire would cooperate with the towns of Derry and Londonderry in the construction of this project because of the fact that it wasn't a successful venture. The original bill would have eliminated that piece where it would have been self-funded. The Senate Committee in its wisdom, determined that it should be in the 10-year plan and that is what the amended version does. The motion was unanimously adopted by the committee.

Amendment adopted.

Ordered to third reading.

SB 542-FN, an act relative to license and registration suspensions. Finance Committee. Vote: 7-0. Ought to pass with amendment. Senator Lovejoy for the committee.

5360L

Amendment to SB 542-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to license and registration suspensions, increasing
the registration restoration fee and clarifying
regulations regarding the registration
and fees for semi-trailers.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Mandatory Suspension of Registration. Amend RSA 261:180 by inserting after paragraph I the following new paragraphs:

I-a. Notwithstanding the provisions of RSA 261:178, in addition to the penalties specified in paragraph I, a person whose license or privilege to drive has been revoked or suspended for a minimum period of 90 days shall be prohibited from registering in this state any type of vehicle or vessel, the registration of which is required under this title or RSA 215-A or RSA 270 during the period of such revocation or suspension. The provisions of this paragraph shall not apply to point system suspensions.

I-b.(a) The department of safety shall mark the records of any person whose license has been revoked or suspended for a minimum of 90 days to indicate that such person's plates are nonrenewable.

(b) Plates shall not be reissued until such person:

(1) Pays all outstanding financial obligations as provided in RSA 265:82-d.

(2) Provides proof of financial responsibility in such form as the director may prescribe.

(3) Successfully completes all applicable treatment and rehabilitation programs.

(4) Pays a \$25 restoration fee which shall be deposited into the highway fund.

2 New Section; Semi-Trailers; Registration Fees; Municipal Permit Fees. Amend RSA 261 by inserting after section 141-a the following new section:

261:141-b Registration of Semi-Trailers. Notwithstanding any other provision of law to the contrary, a semi-trailer may be registered for a year or more but such registration shall not exceed 7 years.

3 Registration Fee for Semi-Trailers. Amend RSA 261:141, III(h) and (i) to read as follows:

(h) Truck-tractors to be used in conjunction with a semi-trailer, gross weight shall include the weight of such tractors, the weight of the heaviest semi-trailer to be used therewith, and the weight of the maximum load to be carried thereby: up to 73,280 pounds - \$.84 per 100 pounds gross weight, over 73,280 pounds - \$1.44 shall be charged for each 100 pounds gross weight or portion thereof in excess of 73,280 pounds. ***Such sum shall be multiplied by the number of years for which the semi-trailer is being registered to determine the registration fee.***

(i) Each additional semi-trailer used in conjunction with such truck-tractor — \$24.00 ***which shall be multiplied by the number of years for which the vehicle is being registered.***

4 New Subparagraphs; Semi-trailer; Municipal Permit Fee. Amend RSA 261:153, III by inserting after subparagraph (b) the following new subparagraphs:

(c) The municipal permit fee for semi-trailers registered in conjunction with a truck tractor as provided in RSA 261:141, III(h), shall be as provided in this section multiplied by the number of years for which the vehicle is being registered, using the existing mileage calculation after year one.

(d) The municipal permit fee for semi-trailers registered in accordance with RSA 261:141, III(i) shall be \$24 multiplied by the number of years for which the vehicle is being registered.

5 Effective Date. This act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill:

(1) Prohibits a person whose license or privilege to drive has been revoked or suspended for a minimum period of 90 days from registering a boat or any type of motor vehicle, including OHRVs, trucks, or motorcycles, in this state for the period of such revocation or suspension. This provision shall not apply to point system suspensions.

(2) Imposes an additional registration restoration fee.

(3) Requires the department of safety to mark the records of any person whose license or privilege to drive has been revoked or suspended for a minimum of 90 days to indicate that such person's plates are non-renewable.

SENATOR LOVEJOY: Mr. President, this bill as amended by Senate Finance has major proponents. Number one, the bill prohibits a person whose license or privilege to drive has been revoked or suspended for a minimum period of 90 days from registering a boat or any type of motor vehicle, including OHRVs, trucks, or motorcycles, in this state for the period of such revocation or suspension. In addition, this bill requires the Department of Safety to mark the records of any person whose license or privilege to drive has been revoked or suspended for a minimum of 90 days to indicate that such person's plates are nonrenewable. Further, the bill prohibits the reissuance of a license until a person does four things: Plates shall not be reissued until such person: (1) Pays all outstanding financial obligations as provided in RSA 265:82-d. (2) Provides proof of financial responsibility in such form as the director may prescribe. (3) Successfully completes all applicable treatment and rehabilitation programs. (4) Pays a \$25 restoration fee which shall be deposited into the highway fund. The second part of this bill, is intended to correct a situation which has caused citations to be issued by highway enforcements to companies which have registered and practiced in New Hampshire

involving trailers that are registered in Maine. A major change is to allow the semi-trailers registration for up to seven years and registration fees to correlate with the duration of that registration.

Amendment adopted.

Ordered to third reading.

SB 600-FN, an act clarifying the authority of the division of air resources to issue facility-wide permits for sources not subject to Title V. Finance Committee. Vote: 6-0. Ought to pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, SB 600 is a policy bill that was sent down to Finance. Our only duty was to take a look at the fiscal impact of this bill. The process will be phased in, so really, no meaningful fiscal impact was anticipated. The Senate Finance Committee voted 6-0 as ought to pass.

SENATOR JOHNSON: I would like to make a comment. I think that this piece of legislation shows what the business and the environment can do in working together. They were both in favor of this type of legislation. Thank you.

Adopted.

Ordered to third reading.

SB 633-FN-A, an act relative to victim restitution and compensation and establishing an administrative fee on restitution payments to fund the operations of the division of field services, department of corrections. Finance Committee. Vote: 7-0. Ought to pass with amendment. Senator Podles for the committee.

5367L

Amendment to SB 633-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to victim restitution and compensation.

Amend RSA 651:63, V as inserted by section 9 of the bill by replacing it with the following:

V. The court shall add 15 percent to the total restitution payment as an administrative fee to be paid by the offender. Administrative fees shall be paid by the offender to the department in addition to and when each restitution payment is made. Administrative fees shall be forwarded to the office of the state treasurer and deposited into the general fund.

Amend RSA 651:64, III as inserted by section 9 of the bill by replacing it with the following:

III. The department may garnish the offender's wages for the purpose of ensuring payment of victim restitution. Use of collection devices available under civil practice shall be the responsibility of the victim. The commissioner of the department of corrections or designee shall have the authority and discretion to appear without counsel in any court proceeding relating to this chapter.

Amend the bill by replacing all after section 9 with the following:

10 Applicability. The court shall have discretion to phase in implementation of sections 6-9 of this act to the extent that the court may select categories of criminal offenses to which the act shall be applied; however, all offenses shall be included in such implementation by January 1, 1999. The court shall file with the senate president, the speaker of the house,

the senate judiciary and family law committee, and the house judiciary and family law committee detailed reports on the progress of the implementation including recommendations from the court for improvement or changes in the law. Such reports shall be filed no less than annually through December 31, 1998.

11 Repeal. The following are repealed:

I. RSA 21-M:8-1, I, relative to rehabilitation as a purpose for restitution.

II. RSA 502-A:37, III relative to the lapse of the court modernization fund.

III. 1989, 408:82, II relative to the prospective repeal of RSA 6:12, I(ff), relating to the court modernization fund.

IV. 1989, 408:82, IV relative to the prospective repeal of RSA 502-A:37, the court modernization fund.

12 Effective Date.

I. Sections 4 and 5 of this act shall take effect July 1, 1998 at 12:02 a.m.

II. The remainder of this act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill:

I. Makes more people eligible for restitution and increases the amount which may be awarded to victims.

II. Prospectively changes the distribution of moneys from the victims' assistance fund.

III. Changes the procedure by which restitution is awarded, collected and distributed.

IV. Increases administrative fees paid on restitution payments.

V. Repeals prospective repeals relative to the court modernization fund.

VI. Gives the court discretion to phase in implementation of this act and requires the court to file reports with the legislature on the progress of implementation.

SENATOR PODLES: Mr. President, SB 633 relative to victim restitution and compensation, the committee report was ought to pass with amendment. This bill as amended by the Senate Finance Committee makes the following changes. It makes more people eligible for restitution and increases the amount which may be awarded to victims. It changes the procedure by which restitution is awarded, collected and distributed. It prospectively changes the distribution of monies from the victim's assistance fund. It increases the administrative fee paid on restitution payments and deposits them in the general fund. It repeals prospective repeals to the court modernization fund. It also gives the court discretion to phase in implementation of this act. The bill will be effective on July 1, 1997.

Amendment adopted.

Ordered to third reading.

SB 635-FN, an act relative to cost of living adjustments for retired firefighters. Finance Committee. Vote: 7-0. Ought to pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, this is another policy bill that came out of the Insurance Committee, it was sent to Finance to find out whether or not there was enough money in the special reserve account to be able to pay this COLA. The firemen in

the state of New Hampshire have not had a COLA in the last four years. We, in Finance, found that there is enough money to cover this. The Senate Finance Committee voted 7-0 to pass this bill.

Adopted.

Ordered to third reading.

SB 661-FN, an act increasing the limit of a nonlapsing revolving fund established in the division of personnel for state and municipal employee training and education. Finance Committee. Vote: 5-2. Inexpedient to legislate. Senator Keough for the committee.

SENATOR KEOUGH: The division of personnel organizes and sponsors seminars for employees, these seminars are self-funded from tuition that is either agency or employee paid. The current law provides that any balance over \$20,000 at year end, will lapse to the general fund. This bill would increase that cap to \$50,000. The view of the Finance Committee was that we should not expand the use of revolving funds to the limits and as Senator Podles said in her report on SB 633, dealing with victims restitutions, one of the changes that was made in that bill, was to take out the nonlapsing fund to have any remaining funds lapsed to the general fund. In being consistent with that policy, it was our view that this bill ought to be voted inexpedient to legislate.

SENATOR J. KING: I rise in opposition to the motion of inexpedient to legislate. I don't know whether people realize it or not, that this is the only way that personnel department primarily has to do their education of the people that work for the state. At the present time, they raised over \$20,000 and it goes back into the general fund, so the incentive is not there to do training, so they are limited to \$20,000 a year to do the training. This bill would raise it to \$50,000 which means that by getting more people involved with whatever they do charge, that that fund would go up. At the present time, they are unable to do a good percentage of the people of this state. The larger offices and agencies have no trouble, they have money for training, but the ones that we were concerned about, are the smaller agencies that don't have any money at all, and if they do have any money, it has to come out of their current expenses. So the value of this would be that the smaller agencies would be able to get some training, better training; hopefully, working with some of the other agencies throughout the state. I think that it is a good bill and I would hope that it would pass.

SENATOR KEOUGH: It was not the intent of the committee to diminish the amount of training that could be offered in any way. This training is being paid for by employees. Employees are paying for training. What we are talking about is what happens to the money after the funds that the employees paid, is used up? We are talking about what happens to the excess money after the level of training has been offered? What we think should happen, that everything over \$20,000 is that it should lapse into the general fund. What this bill would do, it would increase a nonlapsing portion to \$50,000 and we do not think that that in and of itself, that restricts the level of training that could go on in any way.

SENATOR J. KING: There is not enough money to do all of the training. There is not enough money where they all pay, so some of them they have to do free. Some of the booklets that they pass out have to be paid out of that fund. There are a lot of expenses that are not included. That is where the problem has been. If they would be able to charge everybody

for every course that they gave or whatever they did for their training programs, that would be fine, but this money, which is used for this training, should be kept in the training business and it shouldn't be contributed to the general fund so that you can develop the training, otherwise, it is going to stay just what it is now, there is no growth in it.

SENATOR KEOUGH: Senator King, if the division of personnel wants more money for training, why don't they simply go to through the budget process and request a higher appropriation for training?

SENATOR J. KING: I would say that my only reason that it is done this way, Senator Keough, is because somebody in their wisdom, or lack of wisdom, in the prior years, set up this system because it was state money, and it got them up there so that they could start to charge for it and to do the best that they could with nothing. We all just want to continue the same thing, because if you don't you are not going to have the training program.

SENATOR KEOUGH: I wish to make it clear that we are not cutting what someone has set up in the past. The revolving fund, the nonlapsing revolving fund will continue at \$20,000 per year. What we are proposing is that we will not proceed to the request to raise that up to \$50,000.

SENATOR LOVEJOY: Senator King, TAPE INAUDIBLE.

SENATOR J. KING: Would you believe, that I don't agree with you, because if they didn't have this system they wouldn't have anything. If they don't expand on it, you are not going to get any money out of that budget, that is why they put them in that system to begin with, and things haven't gotten any better, they have gotten worse. So if you don't let that grow, you are going to curtail that training program, you are going to limit it. That is what is happening. We are trying to get it so that they can expand it to more agencies and especially the smaller agencies, and you are not going to do it with the way that it is being done at the present time.

SENATOR SHAHEEN: Senator King, isn't it true that one of the reasons that this bill is coming forward is that in an effort to address the concern that one of the first programs that goes when budgets are cut is training for employees and the fact that that is one of the most effective ways to make state government more efficient and get more money's worth in terms of this being a very cost effective way of addressing that problem?

SENATOR J. KING: I certainly agree with you. The other reason is because they don't have those kinds of funds then it comes out of their current expenses, telephones, paper and everything else that they need for supplies. In fact, there is no item in the budget that says training, it is not in there. There is no catagory for it.

Question is on the committee report of inexpedient to legislate.

A division vote is requested.

Yeas: 11 - Nays: 7

Committee report of inexpedient to legislate is adopted.

HB 530-FN, an act transferring the functions and duties of the director of state ski operations. Fish and Game/Recreation Committee. Vote: 5-0. Ought to pass with amendment. Senator Danais for the committee.

5315L

Amendment to HB 530-FN

Amend RSA 216-A:3-i, I as inserted by section 7 of the bill by replacing it with the following:

I. The state treasurer shall establish a separate and distinct account to be known as the state park fund. The treasurer shall establish within the state park fund separate and distinct accounts known as the park account and the ski area account. The treasurer shall deposit in said accounts actual revenue derived by the commissioner of the department of resources and economic development in excess of budget expenses from fees, services, accommodations, rentals, revenue from lift and tramway operations, retail sales, and net profit from concession operations, and including any federal moneys which become available, and all donations and gifts. The accounts shall be continuing and nonlapsing.

Amend the bill by inserting after section 7 the following new section and renumbering the original sections 8-12 to read as 9-13 respectively:

8 New Section; Debt Service for Cannon Tramway. Amend RSA 216-A by inserting after section 3-i the following new section:

216-A:3-j Debt Service for Cannon Tramway. Effective July 1, 1997, debt service for the Cannon Tramway shall be a charge against the general fund.

Amend the bill by replacing all after section 12 with the following:

13 Legislative Review of State Ski Operations. Five years after the effective date of this act, the legislature shall review the operation of the state owned ski areas.

14 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

- (1) Abolishes the position of the director of state ski operations.
- (2) Transfers the duties of the director of state ski operations to the director of parks and recreation.
- (3) Establishes a park account and a ski area account in the state park fund.
- (4) Requires any general fund unrestricted revenue generated from ski area operations that are in excess of actual expenditures for the division of ski operations for the fiscal year ending June 30, 1996 to be deposited into the ski area account.
- (5) Requires the debt service for the Cannon Tramway to be a charge against the general fund in July 1997.

SENATOR DANAIS: This bill abolishes the position of state ski operations and transfers the duties of the director of ski operations to the director of parks and recreation. It establishes a ski area account in the state park fund. This bill codifies the new operating procedures in ski areas. The areas have cut cost over the past year and with the excellent skiing weather, have shown a significant growth in income. The committee voted ought to pass as amended.

Amendment adopted.

SENATOR RUBENS: Does this not create some type of indicated revenue?

SENATOR DANAIS: Yes it does.

Referred to the Finance Committee (Rule #24).

Recess.

Senator Delahunty in the Chair.

HB 1125, an act relative to roads to private recreational areas. Fish and Game/Recreation Committee. Vote: 5-0. Ought to pass. Senator Danaïs for the committee.

SENATOR DANAIS: This bill repeals certain laws relative to layout and construction of public roads and private recreational areas. This bill is a result of an LBA audit. The committee voted ought to pass.

Adopted.

Ordered to third reading.

HB 1199, an act relative to the New Hampshire statewide trail system advisory committee. Fish and Game/Recreation Committee. Vote: 4-0. Ought to pass with amendment. Senator Cohen for the committee.

5343L

Amendment to HB 1199

Amend RSA 216-F:5, V(c)(1) as inserted by section 3 of the bill by replacing it with the following:

(1) Department of Health and Human Services, representing child, youth, and family services.

SENATOR COHEN: There is a 230 mile trail being developed by DRED from Massachussetts to Canada. The use of the trail is determined by the communities. This bill changes the makeup of the New Hampshire Statewide Trail System by adding a member from the New Hampshire Heritage Trail Program. Both groups are working on common goals and this bill will help them achieve that goal. The committee recommends this bill as ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

SB 645-FN-A, an act relative to congregate housing and making an appropriation therefor. Finance Committee. Vote: 4-3. Ought to pass with amendment. Senator Podles for the committee.

5362L

Amendment to SB 645-FN-A

Amend the bill by replacing section 2 with the following:

2 Appropriation. The sum of \$1 for the fiscal year ending June 30, 1997, is hereby appropriated to the department of health and human services, for the purpose of supporting congregate housing services programs in New Hampshire. These funds may be used to receive federal matching funds under the Cranston-Gonzalez National Affordable Housing Act (or its successor) or other federal, county, local, or private funds for congregate housing. This appropriation shall be nonlapsing and nontransferable. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

SENATOR PODLES: Mr. President, SB 645 makes a supplemental appropriation of \$1 to fiscal 1997 to the Department of Health and Human Services for the congregate housing services program in New Hampshire. There are federal matching funds for congregate housing under the Cranston-Gonzalez National Affordable Housing Act. Its office supported services to the frail, elderly, the handicapped, the home-bound persons and subsidized housing. Persons just home from the hospitals, some are blind, they are barely able to walk, they are hard of hearing, people in

their 70s, 80s and 90s. They also contribute 10 percent of their income to this program. In other words, it is not free for them. The program is cost effective, efficient in delivering services, and it targets people with the greatest need. Seventy percent of these people are home-bound, which means that they can't very well leave the house, because as I have said, they are elderly and a lot of them come from hospitals, they have just had surgery or other medical things taken care of. So as public federal funding becomes tighter, congregate housing services programs make more sense than ever. I urge you to support this \$1 appropriation that is put into this bill just to keep it alive, just in case there are federal funds coming in, it would help out this bill.

SENATOR BARNES: I rise to oppose the ought to pass motion and I suggest that we make this inexpedient to legislate. The original bill called for \$400,000 and you know at the present time that we don't have it. Putting the \$1 under this piece of legislation might raise false hopes of these many fine people that Senator Podles spoke about who would be affected by it. Mr. Morton assured me that there is money when it becomes available to be taken care of. Thank you.

SENATOR COHEN: Senator Barnes, if Commissioner Morton says that he is fully committed to funding this when the money becomes available, why not pass this bill with \$1? Why not give the exact direction?

SENATOR BARNES: Thank you, Senator Cohen, the reason why I said what I said, is I don't want to build up false hopes. There are a lot of folks out there that perhaps if this passes with that \$1 on it, that they will assume that they are going to be taken care of immediately and I don't want to put out that message, because that isn't true.

SENATOR COHEN: Perhaps I misunderstood, I thought that you said that it was a commitment on the part of Commissioner Morton?

SENATOR BARNES: If money becomes available.

SENATOR RUBENS: TAPE INAUDIBLE.

SENATOR BLAISDELL: Mr. President and members of the Senate, I was the one to see the \$1 even though it is my motion out of Finance, and I greatly disagree with Jack on this, when you are talking about hope, because that is all that the elderly people of this state have is hope and you don't want to take it away from them. But HB 32, as you know, says notwithstanding any other provision of the law, the commissioner can do whatever he wants, so he doesn't need legislation to be able to do that. I am going to hold him to his commitment, Senator Barnes, that he would put this as a priority along with Meals on Wheels and send it down to Senator Currier down in Senate Finance. I will hold you to that commitment and let this thing go and see what Mr. Morton can do.

SENATOR PODLES: Senator Blaisdell, isn't it true that you have congregate housing in your area, which is Keene?

SENATOR BLAISDELL: Yes I have, it is the same as what you have, Senator Podles, in Manchester and in the other parts of the state.

SENATOR PODLES: And would you believe that they also have it in Laconia, Nashua, Manchester, Somersworth and it was started back in 1978 and it is very successful, and it certainly is very effective and efficient and cost effective?

SENATOR BLAISDELL: I would agree with you, Senator Podles, that it is cost effective. You and I put the bill in back in 1978. As you remem-

ber, TAPE INAUDIBLE sponsors of the bill. I am just trying to get some kind of direction from the Senate. I know that there is not money and I have to depend upon state people that are telling us that there is money available, and they will talk about Meals on Wheels. They will talk to congregate housing. I might add, by the way, that this Senate, in case anybody wants to take any credit, in the last session of the legislature, we were very good to congregate housing. We put over \$300,000 in it. Senator Podles, if we had the money, I would be very glad to stand up here and back you with it. I like the \$1 issue, but some people don't like it and that is all that I can say.

SENATOR F. KING: Would you believe that one of the difficulties that the Senate is having dealing with these issues, is the fact that Washington, Congress and the President, still haven't gotten together on a budget and it is very difficult to do or to make any decisions until they do?

SENATOR BLAISDELL: You are absolutely right, Senator King, and I can tell you more. Representative Bass, the U.S. Congressman, said in my area last Sunday, that he didn't expect that there would be any budget until November, and that you would just get a continuing resolution, so that is what we are talking about here. I hate to give them that kind of hope too, but if there was money coming in, we don't even know today whether you are going to get the \$20 million in Medicare. If it doesn't pass, by the way, if they don't get the entitlement bill passed out of the Congress, you are not going to get any money. You are absolutely right, but he shouldn't have made that statement, to tell you the truth, he should have stood up for the people in the state of New Hampshire.

SENATOR COLANTUONO: Just to state briefly, for the record, that in fact, we put over \$480,000 TAPE CHANGE. I think that it is important to note, that although the language of the bill says that if we appropriate money, that it shall be nonlapsing and nontransferable. You have to remember that under the language of HB 32, the commissioner has the power to transfer money as he deems fit to meet budgetary priorities, so we could pass a bill appropriating money for congregate housing and he could use it for TAPE INAUDIBLE and we have to remember that and keep in line with the philosophy that we adopted last year when we passed HB 32, and let the commissioner manage the money that he has available.

Recess.

Out of recess.

SENATOR BARNES: I would like to urge that the committee amendment be defeated.

Amendment failed.

Recess.

Out of recess.

Motion is on ought to pass.

Senator Currier moved to have **SB 645-FN-A**, an act relative to congregate housing and making an appropriation therefor, laid on the table.

Question is on motion to table.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Larsen.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Barnes, Russman, Danaïs, Delahunty, Keough.

The following Senators voted No: Blaisdell, Pignatelli, Larsen, Podles, J. King, Shaheen, Cohen.

Yeas: 17 - Nays: 7

Motion is adopted.

LAI D ON THE TABLE

SB 645-FN-A, an act relative to congregate housing and making an appropriation therefor.

HB 1227-FN, an act transferring the town of Litchfield from the Nashua District Court to the Merrimack District Court. Judiciary Committee. Vote: 5-1. Ought to pass. Senator Lovejoy for the committee.

SENATOR LOVEJOY: Mr. President, HB 1227 transfers jurisdiction over cases arising in the town of Litchfield from the Nashua District Court to the Merrimack District Court. The move will help Litchfield, particularly police officers who must testify in Derry, because of the shorter drive to Merrimack from Nashua. Both the Nashua and Merrimack courts agreed to the proposal; however, the committee received conflicting testimony over the meaning of the fiscal note and recommends that the bill be sent to the Finance Committee to look more closely at the issue of whether or not the Merrimack Court can absorb these new cases without additional funds.

Adopted.

Recess.

Out of recess.

Ordered to third reading.

HB 1301, an act relative to adoption procedures. Judiciary Committee. Vote: 6-0. Ought to pass with amendment. Senator Podles for the committee.

5331L

Amendment to HB 1301

Amend the bill by replacing section 4 with the following:

4 Right to Notice and Hearing; Prior to Relinquishment or Termination of Mother's Rights. Amend RSA 170-B:5-a, I(a) and (b) to read as follows:

(a) A person named by the natural mother in an affidavit filed with the court, *prior to the mother voluntarily relinquishing her rights pursuant to RSA 170-B:8, the mother consenting to an adoption pursuant to RSA 170-B:9, or the mother's parental rights being involuntarily terminated;*

(b) [When the natural mother has relinquished her parental rights under RSA 170-B:8, or her rights have been terminated under RSA 170-C, or if she has executed a consent under RSA 170-B:9,] The natural or legal father, if his identity is known by the court[;], the adoption agency which is legal guardian of the child[;], or the proposed adoptive parents or their attorney, *prior to the mother voluntarily relinquishing her rights pursuant to RSA 170-B:8, the mother consenting to an adoption pursuant to RSA 170-B:9, or the mother's parental rights being involuntarily terminated;*

Amend RSA 170-B:10-a as inserted by section 11 of the bill by deleting paragraph III and renumbering original paragraphs IV and V to read as III and IV, respectively.

SENATOR PODLES: Mr. President, HB 1301 is an effort to streamline and improve the process of adoption in our probate court system. It redefines and limits the adoption expenses to those cost and services that are directly related to the pregnancy, birth and adoption. It also improves notice requirements to the parties with respect to any paternity claim regarding a child to be placed for adoption. The Children and Family Services support this bill. I urge ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 1124, an act relative to the Merrimack county treasurer. Public Affairs Committee. Vote: 4-1. Ought to pass. Senator Rubens for the committee.

SENATOR RUBENS: HB 1124 repeals certain provisions in statute which deal with the duties of the Merrimack county treasurer. The current statute gives the Merrimack treasurer more duties and supervisory authority than are given to the other nine county treasurers, although the present treasurer has been extremely effective and has not made use of these powers, there is fear that subsequent treasurers may abuse these powers with intent to harm the county. The committee recommends the bill as ought to pass.

Adopted.

Ordered to third reading.

Senator Podles is excused for the afternoon.

HB 1351, an act relative to the sale of certain state-owned property at the Franklin Pierce homestead. Public Affairs Committee. Vote: 6-0. Ought to pass. Senator Barnes for the committee.

SENATOR BARNES: HB 1351 allows state-owned furniture at the Franklin Pierce homestead to be sold at auction without the intervention of Plant and Property Management. The proceeds from this auction will be returned to the homestead for the purpose of upgrades. Testimony suggested that all of the furniture selected to be auctioned off, is not of the period being interpreted and has an estimated value of less than \$2,000. The committee unanimously recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1539-FN-L, an act relative to fees for group dog licenses. Public Affairs Committee. Vote: 5-0. Ought to pass with amendment. Senator Roberge for the committee.

5341L

Amendment to HB 1539-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to fees for group dog licenses
and making a technical correction.

Amend the bill by replacing section 3 with the following:

3 Reference Deletion. Amend RSA 466:4, III to read as follows:

III. Fees for dogs licensed in a commercial kennel shall be based on the numbers of dogs licensed, as in RSA 466:6 for group licenses. For purposes of this paragraph, "commercial kennel" means the establishment or domicile of any person who sells dogs at wholesale or retail; and, if retail, who sells or transfers 10 or more litters per year, or sells or transfers 50 or more puppies per year; or who derives 40 percent or more of gross annual income from the sale or transfer of dogs. The owner or keeper of any dog licensed under this paragraph [or RSA 466:6] shall not be assessed a companion animal population control fee.

4 Technical Correction. Amend RSA 466:4, III to read as follows:

III. Fees for dogs licensed in a commercial kennel shall be based on the numbers of dogs licensed, as in RSA 466:6 for group licenses. For purposes of this paragraph, "commercial kennel" means the establishment or domicile of any person who sells dogs at wholesale or retail; and, if retail, who sells or transfers 10 or more litters per year, or sells or transfers 50 or more puppies per year; or who derives 40 percent or more of gross annual income from the sale or transfer of dogs. *The owner or keeper of any dog licensed under this paragraph shall not be assessed a companion animal population control fee.*

5 Effective Date.

I. Section 4 of this act shall take effect July 1, 1997, at 12:02 a.m.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill changes the rate structure needed to obtain a group dog license by requiring a set fee regardless of the number of dogs. From the group license fee, \$2 is designated as the companion animal population control fee.

The bill also makes a technical correction in the law relative to commercial licensure.

SENATOR ROBERGE: I think that my co-workers need muzzles . . . Mr. President and members of the Senate, relative to fees for group dog licenses. HB 1539 establishes a \$20 fee for group dog licenses regardless of the number of dogs that the individual owns. The current statute establishes a rate structure based on the number of dogs one has. The bill also sends \$2 of every group license fee with the companion animal population control fee. Presently this fee is only assessed to owners who license their dogs individually. The amendment is technical in nature, correcting oversights in the statute. The Public Affairs Committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1366, an act requiring the commissioner of the department of corrections to prepare a quarterly report on department of corrections population management. Public Institutions, Health and Human Services Committee. Vote: 5-0. Ought to pass with amendment. Senator Rubens for the committee.

5320L

Amendment to HB 1366

Amend the title of the bill by replacing it with the following:

AN ACT

requiring the commissioner of the department of corrections to prepare and publish an annual comprehensive plan for the state's correctional system.

Amend the bill by replacing all after the enacting clause with the following:

1 Modification of Commissioner's Duty to Submit a Comprehensive Plan. Amend RSA 21-H:8, X to read as follows:

X. The commissioner shall develop, publish, and periodically revise [a] ***an annual*** comprehensive plan for the state's correctional system which shall indicate, among other things, the department's goals, objectives, resources, current conditions, and needs. The commissioner shall cooperate with the commissioner of the department of youth development services in preparing the juvenile section of the plan required by RSA 621:12, II. The commissioner shall adopt the juvenile section submitted by the commissioner of youth development services without revision. ***The commissioner shall annually submit such comprehensive plan to the governor and council, speaker of the house, president of the senate, and governing bodies of municipalities.***

2 First Annual Plan. The commissioner shall submit the first annual plan required by section 1 of this act by January 1, 1997.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires the commissioner of the department of corrections to prepare an annual comprehensive plan for the state's correctional system and to submit such plan to the governor and council, speaker of the house, president of the senate, and governing bodies of municipalities.

SENATOR RUBENS: Mr. President, HB 1366 rewrites the existing statute RSA 21-H:8, X to require that the commissioner of the Department of Corrections develop an annual report that would indicate the department's goals, objectives, resources and current conditions and needs. This report will be submitted annually to the Governor and Council, Speaker of the House and the President of the Senate and the governing bodies of the municipalities involved. Testimony in the public hearing indicated that there is no orderly information existing currently, and this bill would formalize what is a very informal process now. The first annual report shall be submitted by January 1, 1997. The Public Institutions, Health and Human Services Committee, unanimously urges ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1527, an act proclaiming the calendar week of May 15 of each year as Law Enforcement Memorial Week. Transportation Committee. Vote: 6-0. Ought to pass. Senator F. King for the committee.

SENATOR F. KING: HB 1527 recognizes the service to the men and women of New Hampshire who have been involved in the law enforcement, by proclaiming the week of May 15 of each year as Law Enforce-

ment Memorial Week. During the week of remembrance, the New Hampshire Police Association plans to hold a yearly memorial service for those officers who died in the line of duty. The Police Association requested that we expedite this legislation so that they will be able hold a memorial service this year. The Transportation Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1592-FN, an act naming a certain segment of highway in Merrimack. Transportation Committee. Vote: 6-0. Ought to pass. Senator Stawasz for the committee.

SENATOR STAWASZ: HB 1592 names a newly constructed roadway, which connects with Continental Boulevard as Continental Boulevard. Currently there are several names used for this section of roadway, the only thing that the turnpike system has given freely to the town of Merrimack. Lack of clarity could result in problems for emergency vehicles trying to respond to an accident. A single officially recognized name would reduce confusion, and besides, it is a straight road with a name on one end. We urge ought to pass.

Adopted.

Ordered to third reading.

HB 1600, an act extending the reporting date of the paperless title system study committee. Transportation Committee. Vote: 6-0. Ought to pass. Senator Stawasz for the committee.

SENATOR STAWASZ: What a lovely vernal equinox today. HB 1600 extends the study committee because there are currently five pilot programs going on paperless title in states around the nation, and rather than institute a program before those pilot programs had finished, we thought that it would be beneficial to monitor them and learn the most efficient way of implementing such a program. In addition, the study committee was in the process of serving the state's lenders to determine if there is indeed a need for the program. Hopefully, this will be a way to save the state money as well as streamline things to consumers, dealers and lenders. We recommend ought to pass.

SENATOR RODESCHIN: Senator Stawasz, would you tell me what is a paperless title system?

SENATOR STAWASZ: Currently, Senator Rodeschin, when you take your automobile into the dealer to sell, the dealer has to get your title from Concord before he can get the lien released on that vehicle and make the payoff and etceteras. An electronic or paperless title system, would all be done through computers with the lienholders, at the banks and the auto dealers, so that it would eliminate the need for going to archives to pull up that fiscal piece of paper for that transaction, they could conceivably take care of this all on an electronic posting on a daily basis.

Adopted.

Ordered to third reading.

SB 651, an act redistributing breakage for running horse races and establishing a committee to examine certain aspects of the pari-mutuel industry. Ways and Means Committee. Vote: 7-0. Ought to pass with amendment. Senator Fraser for the committee.

5364L

Amendment to SB 651

Amend the title of the bill by replacing it with the following:

AN ACT

providing for horse racing purse parity, relative to taxes on simulcast dog racing, and establishing a committee to examine certain aspects of the pari-mutuel industry.

Amend the bill by replacing all after the enacting clause with the following:

1 Percentage Increased. Amend RSA 284:22, I to read as follows:

I. The commission on all win, place and show pari-mutuel pools at tracks or race meets at which running horse races are conducted for public exhibition shall be uniform throughout the state at the rate of 19 percent of each dollar wagered in such pools, and the commission on all other pari-mutuel pools at such tracks or race meets shall be at the rate of not less than 26 percent of each dollar wagered in such pools and not more than 27 percent of each dollar wagered in such pools as determined from time to time by the licensee which conducts live running horse races after written notice to the commission and, in the absence of written notice, at the rate of 26 percent of each dollar wagered in such pools. Except as provided in RSA 284:22-a, the amount of the purse at such tracks or race meets at which running horse races are conducted shall be [8-1/4] **8-1/2 percent of each dollar wagered in all win, place and show, pari-mutuel and 9-1/2 percent of each dollar wagered in all other** pari-mutuel pools, [said 8-1/4 percent] **such percentages** to be paid by the licensee out of the commission on such pools. In addition to the above commission, 1/2 of the odd cents of all redistribution based on each dollar wagered exceeding a sum equal to the next lowest multiple of 10 (except, with simulcast wagering, in cases where the licensee pays out more than the total amount in the pool, the lowest multiple of 5 shall be used), known as "breakage," shall be retained by the licensee, and the balance of such breakage shall be paid to the state treasury for the use of the state in accordance with the provisions of RSA 284:2. During the calendar years 1995, 1996 and 1997, 3/4 of the breakage shall be paid to the state and 1/4 of the breakage shall be retained by the licensee, unless the payment by the licensee set forth in RSA 284:23, I(b) is made to the state. In such event, 1/2 of the breakage shall be retained by the licensee and 1/2 of the breakage shall be paid to the state. Each licensee shall pay the tax provided for in RSA 284:23.

2 Distribution of Pari-Mutuel Pools on Simulcast Racing. Amend RSA 284:22-a, VIII to read as follows:

VIII. RSA 284:22, I, II, III, and IV shall apply according to the type of race on which the simulcast wagers are made, excepting, however, interstate common pools as provided in RSA 284:22-a, V(b) and that the provisions made for purses made in RSA 284:22, I shall not apply to simulcast races. **However, not less than 3-1/2 percent of each dollar wagered on simulcast races in all pari-mutuel pools shall be paid to the horsemen's group of the most recent live racing performance at the simulcasting licensee's racetrack.** The commission on simulcast race pools shall be available to the simulcasting licensee to satisfy obligations to the racing association originating or transmitting such simulcast races or to the horsemen's group of such association.

3 Statement of Intent. It is the intent of the general court to establish a pilot program to affect the pari-mutuel tax structure as it applies to tracks within the state which simulcast dog racing from other tracks within the state of New Hampshire or outside of the state. RSA 284:22 requires tracks which simulcast dog racing to pay the applicable dog racing tax as set forth in RSA 284:23. It is the intent of the general court to distinguish between simulcast racing and live dog racing and to recognize that the current tax structure discourages increased simulcast activity. The general court also recognizes that previous changes in the law to remedy this disincentive have resulted in large differences in tax rates between in-state dog racing facilities. The intent of this act is to provide an incentive for in state race tracks to increase their racing activity by establishing a temporary uniform tax rate for all facilities that simulcast dog racing.

4 Temporary Tax Rate Established for Fiscal Year Ending June 30, 1997.

I. Notwithstanding RSA 284:22-a or any provision of law to the contrary, the following shall apply to all licensees at race tracks which simulcast dog racing as provided in RSA 284:22-a, for the period beginning July 1, 1996 and ending June 30, 1997:

(a) All such licensees shall pay to the state treasury a sum equal to 3.5 percent of the total contribution to all pari-mutuel pools of simulcast dog racing. The amount so paid to the state treasury shall be distributed in accordance with the provisions of RSA 284:2.

(b) If the pari-mutuel pool is less than \$125,000 for any program of live dog racing conducted at a dog race or dog meet, the licensees shall be credited \$200 for each officially completed live dog race with that program, and if the pari-mutuel pool is less than \$50,000 for any program of live dog racing at a dog race or dog race meet, the licensee shall be credited \$225 for each officially completed race with that program, the credit to be applied to the tax due as computed under RSA 284:23, II-a; provided, however, that no licensee shall pay a tax less than \$300 for any program of live dog racing.

II. This section shall apply only to programs of live dog racing conducted within the state of New Hampshire.

5 Committee Established. There is hereby established a committee to examine the pari-mutuel industry, including how the purse is distributed and how pari-mutuel races are taxed.

6 Membership. The members of the committee shall be:

I. Three house members, one from the house finance committee, one from the commerce, small business, consumer affairs and economic development committee, and one from the regulated revenues committee, appointed by the speaker of the house. One of the 3 house members shall represent the party of the house minority leader.

II. Three senators, one from the senate ways and means committee, one from the economic development committee, and one from the senate finance committee, appointed by the senate president. One of the 3 senators shall represent the party of the senate minority leader.

7 Meetings; Chair. The first-named senator shall call the first meeting within 30 days of the effective date of this section. The committee shall choose a chair from among its members at the first meeting.

8 Report. The committee shall report its findings and recommendations, including any proposed legislation, to the president of the senate, the speaker of the house, the senate clerk, the house clerk, the state library, and the governor on or before November 1, 1997.

9 Compensation. Members of the committee shall receive mileage at the legislative rate when attending to their duties on the committee.

10 Effective Date.

I. Sections 3-9 of this act shall take effect July 1, 1996.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

(1) Increases the purses for running horse races.

(2) Changes how taxes are calculated for simulcast and live dog races for fiscal year 1997 for dog tracks which engage in simulcasting.

(3) Establishes a committee to examine certain aspects of the pari-mutuel industry. The committee shall report its findings on or before November 1, 1997.

SENATOR FRASER: Mr. President, I originally sponsored this bill and it really has kind of lost its identity. I think that the Senate would be proud to call it the football bill because it has been kicked around a little bit. What the bill purports is to do three things.

Recess.

Out of recess.

SENATOR FRASER: Mr. President, I would ask my colleagues that in the calendar today is an amendment which doesn't represent what the committee determines to do. The amendment is wrong. I would ask my colleagues to defeat the committee amendment that is in the calendar.

Amendment failed.

Senator Fraser offered a floor amendment.

5378L

Floor Amendment to SB 651

Amend the title of the bill by replacing it with the following:

AN ACT

providing for horse racing purse parity, relative to taxes on simulcast dog racing, and establishing a committee to examine certain aspects of the pari-mutuel industry.

Amend the bill by replacing all after section 1 with the following:

2 Statement of Intent. It is the intent of the general court to establish a pilot program to affect the pari-mutuel tax structure as it applies to tracks within the state which simulcast dog racing from other tracks within the state of New Hampshire or outside of the state. RSA 284:22 requires tracks which simulcast dog racing to pay the applicable dog racing tax as set forth in RSA 284:23. It is the intent of the general court to distinguish between simulcast racing and live dog racing and to recognize that the current tax structure discourages increased simulcast activity. The general court also recognizes that previous changes in the law to remedy this disincentive have resulted in large differences in tax rates between in-state dog racing facilities. The intent of this act is to provide an incentive for in state race tracks to increase their racing activity by establishing a temporary uniform tax rate for all facilities that simulcast dog racing.

3 Temporary Tax Rate Established for Fiscal Year Ending June 30, 1997. Notwithstanding RSA 284:22-a or any provision of law to the contrary, all licensees at race tracks which simulcast dog racing as provided

in RSA 284:22-a, unless such licensee is subject to the provisions of RSA 284:23, V, (b) for the period beginning July 1, 1996, and ending June 30, 1997, shall pay to the state treasury a sum equal to 3.5 percent of the total contribution to all pari-mutuel pools of simulcast dog racing. The amount so paid to the state treasury shall be distributed in accordance with the provisions of RSA 284:2.

4 Committee Established. There is hereby established a committee to examine the pari-mutuel industry, including how the purse is distributed and how pari-mutuel races are taxed.

5 Membership. The members of the committee shall be:

I. Three house members, one from the house finance committee, one from the commerce, small business, consumer affairs and economic development committee, and one from the regulated revenues committee, appointed by the speaker of the house. One of the 3 house members shall represent the party of the house minority leader.

II. Three senators, one from the senate ways and means committee, one from the economic development committee, and one from the senate finance committee, appointed by the senate president. One of the 3 senators shall represent the party of the senate minority leader.

6 Meetings; Chair. The first-named senator shall call the first meeting within 30 days of the effective date of this section. The committee shall choose a chair from among its members at the first meeting.

7 Report. The committee shall report its findings and recommendations, including any proposed legislation, to the president of the senate, the speaker of the house, the senate clerk, the house clerk, the state library, and the governor on or before November 1, 1996.

8 Compensation. Members of the committee shall receive mileage at the legislative rate when attending to their duties on the committee.

9 Effective Date.

I. Sections 2-8 of this act shall take effect July 1, 1996.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

(1) Increases the purses for running horse races.

(2) Changes how taxes are calculated for simulcast and live dog races for fiscal year 1997 for certain dog tracks which engage in simulcasting.

(3) Establishes a committee to examine certain aspects of the pari-mutuel industry. The committee shall report its findings on or before November 1, 1996.

SENATOR FRASER: There are three pieces to this amendment. The first one is that the original bill, which was an effort on my part and others, to strengthen the purses at Rockingham Park. That part of the bill has been converted to a study committee to study the whole current issue of the system. The second part of the bill, and I may have the sections wrong, the second part of the bill, gives some relief to the dog tracks, Hinsdale and Seabrook, by giving them a flat tax of three and one-half percent on all simulcast dog racing. What this does is allows them to broaden their capacity to engage in more simulcast racing and bring in more programs. TAPE INAUDIBLE have had to pay \$300 per program, which they brought into their track, but this proposed change that has been recommended by the Ways and Means Committee, they would pay a flat tax of three and one-half percent. That was part two of the bill. The third section of the bill, was a piece that I was originally supporting, which would have given Rockingham Park the \$300,000 that currently

goes to the state for breaking the odd cents, in other words, if you cash your ticket, the actual cash value might be \$2.15 but the track is going to pay you \$2.10 or \$2.20. Over the course of a year, that amounts to about \$600,000 and \$300,000 goes to the track and \$300,000 goes to the general fund. Those are the three pieces of the bill as amended. I would urge you to adopt the amendment version of the bill that you have before you. There will be another floor amendment following that will be offered by Senate Finance which is the fiscal part of the bill, mainly.

Floor amendment adopted.

Referred to the Finance Committee (Rule #24).

SUSPENSION OF THE RULES

Senator Fraser moved that the Rules of the Senate be suspended to dispense with the holding of a hearing, the notice of a committee report in the calendar, and that the bill be put on Second Reading at the present time.

SB 651, providing for horse racing purse parity, relative to taxes on simulcast dog racing, and establishing a committee to examine certain aspects of the pari-mutuel industry.

Adopted by the necessary 2/3 vote.

SB 651, providing for horse racing purse parity, relative to taxes on simulcast dog racing, and establishing a committee to examine certain aspects of the pari-mutuel industry. Finance Committee. Ought to pass with amendment. Senator Currier for the committee.

5380L

Floor Amendment to SB 651

Amend the title of the bill by replacing it with the following:

AN ACT

relative to taxes on simulcast dog racing and establishing a committee to examine certain aspects of the pari-mutuel industry.

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Intent. It is the intent of the general court to establish a pilot program to affect the pari-mutuel tax structure as it applies to tracks within the state which simulcast dog racing from other tracks within the state of New Hampshire or outside of the state. RSA 284:22 requires tracks which simulcast dog racing to pay the applicable dog racing tax as set forth in RSA 284:23. It is the intent of the general court to distinguish between simulcast racing and live dog racing and to recognize that the current tax structure discourages increased simulcast activity. The general court also recognizes that previous changes in the law to remedy this disincentive have resulted in large differences in tax rates between in-state dog racing facilities. The intent of this act is to provide an incentive for in state race tracks to increase their racing activity by establishing a temporary uniform tax rate for all facilities that simulcast dog racing.

2 Temporary Tax Rate Established for Fiscal Year Ending June 30, 1997. Notwithstanding RSA 284:22-a or any provision of law to the contrary, all licensees at race tracks which simulcast dog racing as provided in RSA 284:22-a, unless such licensee is subject to the provisions of RSA

284:23, V, (b) for the period beginning July 1, 1996, and ending June 30, 1997, shall pay to the state treasury a sum equal to 3.5 percent of the total contribution to all pari-mutuel pools of simulcast dog racing. The amount so paid to the state treasury shall be distributed in accordance with the provisions of RSA 284:2.

3 Committee Established. There is hereby established a committee to examine the pari-mutuel industry, including how the purse is distributed and how pari-mutuel races are taxed.

4 Membership. The members of the committee shall be:

I. Three house members, one from the house finance committee, one from the commerce, small business, consumer affairs and economic development committee, and one from the regulated revenues committee, appointed by the speaker of the house. One of the 3 house members shall represent the party of the house minority leader.

II. Three senators, one from the senate ways and means committee, one from the economic development committee, and one from the senate finance committee; appointed by the senate president. One of the 3 senators shall represent the party of the senate minority leader.

5 Meetings; Chair. The first-named senator shall call the first meeting within 30 days of the effective date of this section. The committee shall choose a chair from among its members at the first meeting.

6 Report. The committee shall report its findings and recommendations, including any proposed legislation, to the president of the senate, the speaker of the house, the senate clerk, the house clerk, the state library, and the governor on or before November 1, 1996.

7 Compensation. Members of the committee shall receive mileage at the legislative rate when attending to their duties on the committee.

8 Effective Date. This act shall take effect July 1, 1996.

AMENDED ANALYSIS

This bill:

(1) Changes how taxes are calculated for simulcast and live dog races for fiscal year 1997 for certain dog tracks which engage in simulcasting.

(2) Establishes a committee to examine certain aspects of the pari-mutuel industry. The committee shall report its findings on or before November 1, 1996.

SENATOR CURRIER: Senate Finance has already met on this bill and we offer this floor amendment. After Ways and Means met yesterday afternoon and we were aware of what the direction that the bill was going to take even though since that time, it has taken a lot of changes and a lot of effort on the part of a number of people to get the concept correct. The bill as it now exists, still has the breakage fee portion of the bill. What this amendment does, is to take that out of the bill, basically making this bill revenue neutral, so that there isn't really any additional monies or revenues that the state would lose. There were all kinds of figures entered about one percent to four and one-half percent, in terms of percentages, in regard to the overall flat tax concept; but basically, the only difference with this floor amendment, which is the recommendation of Senate Finance, is to take the breakage fee portion out of the bill, which is now included in part of the study committee.

SENATOR SHAHEEN: Senator Currier, I understand that you are saying that the difference between your amendment and the Senate bill amended by the Senate, that is in our packet, is that it takes the break-

age out, but in fact, Senator Fraser's amendment, as I understand it, does the same thing. So what I am not clear on, is what is the difference between your amendment and Senator Fraser's amendment?

SENATOR CURRIER: Senator Fraser's bill said to amend everything after section one. So Senator Fraser . . .

SENATOR SHAHEEN: Oh, I got it now. Right. I got it.

SENATOR CURRIER: This bill actually cuts that. The amendment that is before you now, is actually everything after the enacting clause.

Floor amendment adopted.

Ordered to third reading.

Enrolled Bill Amendment to SB 157-FN-LOCAL

5310

Amend RSA 188-F:26, V as inserted by section 2 of the bill by replacing it with the following:

V. Establish entrance, student conduct, and curriculum requirements for preparatory, in-service, and advanced courses and programs for schools operated by or for the state or its political subdivisions for the specific purpose of training police [or], state corrections, **or state probation-parole** recruits or officers or tuition students at such programs.

Amend RSA 188-F:27, I as inserted by section 4 of the bill by replacing it with the following:

I. At the earliest practical time, the council shall provide by rule that after one year from the effective date of the rule no person shall be appointed as a police officer [or], state corrections officer, **or state probation-parole officer**, except on a temporary or probationary basis, unless such person has satisfactorily completed a preparatory program of police [or], corrections **or probation-parole** training appropriate to such person's position at a school approved by the council. No such officer who lacks the educational and training qualifications required by this section may have the temporary or probationary employment extended beyond 2 years.

Senator Currier moved adoption.

Adopted.

RESOLUTION

Senator Barnes moved that the rules of the Senate be so far suspended as to allow all bills to be placed on Third Reading and Final Passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

SENATOR FRASER (RULE #44): Mr. President, a few moments ago we adopted the amendment version of SB 651. I had the opportunity over the last several months to work with those of management at Rockingham as well as the horses and the trainers. This bill was originally an effort on my part, as to relieve some of the problems that are inherent in our racing community today. It is a fact and unfortunately it is true, that right now the racing industry in New Hampshire is hurting. I appreciate what you were able to do for us today. It hasn't solved the problem, but I would hope that when this study committee meets, Mr. President, that some kind of definite action will be taken to make sure that the racing industry, as we know it in New Hampshire, doesn't leave the state and go somewhere else.

LATE SESSION**Third Reading and Final Passage**

SB 518, relative to the industrial center and the financial liability of the state for a company's default on matching fund obligations, authorizing the assessment of fees on certain projects, and the disposition of equipment purchased with state funds.

SB 542-FN, relative to license and registration suspensions, increasing the registration restoration fee and clarifying regulations regarding the registration and fees for semi-trailers.

SB 561-A, making a supplemental appropriation for capital improvements to the university system of New Hampshire for Lamson library at Plymouth state college.

SB 581-LOCAL, an act relative to the Derry local exit on I-93.

SB 593-FN-A, relative to New Hampshire Route 125.

SB 600-FN, an act clarifying the authority of the division of air resources to issue facility-wide permits for sources not subject to Title V.

SB 633-FN-A, relative to victim restitution and compensation.

SB 635-FN, an act relative to cost of living adjustments for retired fire-fighters.

SB 651, relative to taxes on simulcast dog racing and establishing a committee to examine certain aspects of the pari-mutuel industry.

HB 1124, an act relative to the Merrimack county treasurer.

HB 1125, an act relative to roads to private recreational areas.

HB 1126-FN, an act relative to the comprehensive shoreland protection act.

HB 1199, an act relative to the New Hampshire statewide trail system advisory committee.

HB 1227-FN, an act transferring the town of Litchfield from the Nashua District Court to the Merrimack District Court.

HB 1266, an act relative to disclosure of fees charged by owners and operators of electronic customer service terminals for use of such terminals.

HB 1301, an act relative to adoption procedures.

HB 1351, an act relative to the sale of certain state-owned property at the Franklin Pierce homestead.

HB 1366, requiring the commissioner of the department of corrections to prepare and publish an annual comprehensive plan for the state's correctional system.

HB 1434, an act establishing a committee to study the issues surrounding the definition of "facility" for the purposes of eligibility for property tax exemptions for water and air pollution control facilities.

HB 1527, an act proclaiming the calendar week of May 15 of each year as Law Enforcement Memorial Week.

HB 1539-FN-L, relative to fees for group dog licenses and making a technical correction.

HB 1592-FN, an act naming a certain segment of highway in Merrimack.

HB 1600, an act extending the reporting date of the paperless title system study committee.

RESOLUTION

Senator Barnes moved that the Senate be in recess until Thursday, March 28, 1996 at 10:00 a.m. for the sole purpose of introducing legislation, referring bills to committee, and scheduling hearings and Enrolled Bills Reports.

Adopted.

Recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 1134-FN, relative to registration of certain criminal offenders.

HB 1154, establishing kindergarten planning assistance and maintenance aid programs, and making an appropriation therefor.

HB 1162-FN, relative to making a supplemental appropriation for the veterinary diagnostic laboratory in the agriculture experiment station at the university of New Hampshire.

HB 1177-FN, relative to the state board of licensing for foresters.

HB 1186-FN, requiring the executive director of the department of fish and game to adopt rules regulating fishing tournaments, including rules regarding waivers of tournament fees.

HB 1252-FN-A-L, establishing a local education improvement assistance program and making an appropriation therefor.

HB 1288, relative to pesticide product registration and establishing a study committee of pesticide product registration policies.

HB 1314, reorganizing the department of environmental services.

HB 1320-A, making a supplemental appropriation for capital improvements to the university system of New Hampshire for the Young Building at Keene state college.

HB 1335-FN-A-L, relative to the New Hampshire Main Street Center and local Main Street programs and making an appropriation therefor.

HB 1344, providing for an increase in the maximum cost of sweepstakes tickets and relative to the assignment of lottery prizes.

HB 1399, establishing 2 new positions in the department of environmental services to implement the sludge permit system; repealing the sewage disposal system fund; relative to sewage disposal system recording fees; and making appropriations from the balance contained in the sewage disposal system fund.

HB 1445-FN-A-L, providing for certain services for the developmentally disabled and making an appropriation therefor.

HB 1446-FN, establishing the New Hampshire board of hearing care providers, requiring audiologists to be licensed, and establishing certain fees.

HB 1453-FN, relative to divisions and employees of the liquor commission.

HB 1458, relative to the commissioner's authority to make expenditures for certain railroad projects, and requiring the state to provide warning signs for public crossings over state-owned railroad lines.

HB 1515-A, establishing a telecommunications assistance program.

HB 1517-FN-A, increasing the cigarette tax and designating a portion of the revenue for cancer-related research and screening and anti-smoking campaigns.

HB 1530-FN, authorizing the executive director of the department of fish and game to regulate the taking of deer and moose and permitting the director to adopt rules relative to a registration agent's fees.

HB 1532-FN-L, allowing school districts to file a district-wide plan for the evaluation and remediation of teachers with the department of education.

HB 1536-FN-A-L, relative to encouraging private purchase, clean up, and restoration of environmentally contaminated sites and making a supplemental appropriation to the department of environmental services.

HB 1571, relative to the guidelines for the construction and maintenance of certain recreational trails.

HB 1577-FN, relative to expenses for voluntary or court dispositional service plans.

HB 1584-FN-L, relative to the establishment of a DNA database and to the DNA testing of convicted sexual offenders.

HB 1603-FN, relative to the budget for the animal population control program.

HB 1614-FN, relative to the road toll refund.

HB 1634-FN, relative to licenses and license fees of electricians.

RESOLUTION

INTRODUCTION OF HOUSE BILLS

Senator Barnes **RESOLVED**, that in accordance with the list in the possession of the Clerk, House Bills numbered 1134 through 1634, shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 1134-FN, relative to registration of certain criminal offenders. Judiciary Committee.

HB 1154, establishing kindergarten planning assistance and maintenance aid programs, and making an appropriation therefor. Education Committee.

HB 1162-FN, relative to making a supplemental appropriation for the veterinary diagnostic laboratory in the agriculture experiment station at the university of New Hampshire. Fish and Game/Recreation Committee.

HB 1177-FN, relative to the state board of licensing for foresters. Environment Committee.

HB 1186-FN, requiring the executive director of the department of fish and game to adopt rules regulating fishing tournaments, including rules regarding waivers of tournament fees. Fish and Game/Recreation Committee.

HB 1252-FN-A-L, establishing a local education improvement assistance program and making an appropriation therefor. Education Committee.

HB 1288, relative to pesticide product registration and establishing a study committee of pesticide product registration policies. Environment Committee.

HB 1314, reorganizing the department of environmental services. Environment Committee.

HB 1320-A, making a supplemental appropriation for capital improvements to the university system of New Hampshire for the Young Building at Keene state college. Capital Budget Committee.

HB 1335-FN-A-L, relative to the New Hampshire Main Street Center and local Main Street programs and making an appropriation therefor. Public Affairs Committee.

HB 1344, providing for an increase in the maximum cost of sweepstakes tickets and relative to the assignment of lottery prizes. Ways and Means Committee.

HB 1399, establishing 2 new positions in the department of environmental services to implement the sludge permit system; repealing the sewage disposal system fund; relative to sewage disposal system recording fees; and making appropriations from the balance contained in the sewage disposal system fund. Environment Committee.

HB 1445-FN-A-L, providing for certain services for the developmentally disabled and making an appropriation therefor. Public Institutions, Health and Human Services Committee.

HB 1446-FN, establishing the New Hampshire board of hearing care providers, requiring audiologists to be licensed, and establishing certain fees. Executive Departments and Administration Committee.

HB 1453-FN, relative to divisions and employees of the liquor commission. Executive Departments and Administration Committee.

HB 1458, relative to the commissioner's authority to make expenditures for certain railroad projects, and requiring the state to provide warning signs for public crossings over state-owned railroad lines. Transportation Committee.

HB 1515-A, establishing a telecommunications assistance program. Public Institutions, Health and Human Services Committee.

HB 1517-FN-A, increasing the cigarette tax and designating a portion of the revenue for cancer-related research and screening and anti-smoking campaigns. Ways and Means Committee.

HB 1530-FN, authorizing the executive director of the department of fish and game to regulate the taking of deer and moose and permitting the director to adopt rules relative to a registration agent's fees. Fish and Game/Recreation Committee.

HB 1532-FN-L, allowing school districts to file a district-wide plan for the evaluation and remediation of teachers with the department of education. Education Committee.

HB 1536-FN-A-L, relative to encouraging private purchase, clean up, and restoration of environmentally contaminated sites and making a supplemental appropriation to the department of environmental services. Environment Committee.

HB 1571, relative to the guidelines for the construction and maintenance of certain recreational trails. Fish and Game/Recreation Committee.

HB 1577-FN, relative to expenses for voluntary or court dispositional service plans. Judiciary Committee.

HB 1584-FN-L, relative to the establishment of a DNA database and to the DNA testing of convicted sexual offenders. Judiciary Committee.

HB 1603-FN, relative to the budget for the animal population control program. Fish and Game/Recreation Committee.

HB 1614-FN, relative to the road toll refund. Ways and Means Committee.

HB 1634-FN, relative to licenses and license fees of electricians. Executive Departments and Administration Committee.

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 1346, relative to notice of benefits charges, maximum weekly benefits, and penalties for failure to disclose a material fact under the unemployment compensation laws.

HB 1368, requiring permits for dentists who administer general anesthesia, deep sedation, and conscious sedation, and giving the board of dental examiners related rulemaking authority regarding the permits and fees.

HB 1631, relative to felonious use of body armor.

HB 1632, authorizing degree granting authority to the Manchester Institute of Arts and Sciences.

HB 1633-FN-L, relative to solid waste management.

HJR 26, urging the United States Postal Service to issue a stamp to honor Maxfield Parrish.

HCR 29, encouraging gun safety education programs for children.

RESOLUTION

INTRODUCTION OF HOUSE BILLS

Senator Barnes RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 1346 through HCR 29, shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 1346, relative to notice of benefits charges, maximum weekly benefits, and penalties for failure to disclose a material fact under the unemployment compensation laws. Insurance Committee.

HB 1368, requiring permits for dentists who administer general anesthesia, deep sedation, and conscious sedation, and giving the board of dental examiners related rulemaking authority regarding the permits and fees. Public Institutions, Health and Human Services Committee.

HB 1631, relative to felonious use of body armor. Judiciary Committee.

HB 1632, authorizing degree granting authority to the Manchester Institute of Arts and Sciences. Education Committee.

HB 1633-FN-L, relative to solid waste management. Environment Committee.

HJR 26, urging the United States Postal Service to issue a stamp to honor Maxfield Parrish. Public Affairs Committee.

HCR 29, encouraging gun safety education programs for children. Education Committee.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1527, proclaiming the calendar week of May 15 of each year a Law Enforcement Memorial Week.

SB 157, placing probation-parole officers in group II in the New Hampshire retirement system.

HB 1266, relative to disclosure of fees charged by owners and operators of electronic customer service terminals for use of such terminals.

HB 1125, relative to roads to private recreational areas.

HB 1600, extending the reporting date of the paperless title system study committee.

SB 631, extending the reporting date of the retail wheeling and electric utility restructuring committee.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

HB 1124, relative to the Merrimack county treasurer.

HB 1126, relative to the comprehensive shoreland protection act.

HB 1351, relative to the sale of certain state-owned property at the Franklin Pierce homestead.

HB 1592, naming a certain segment of highway in Merrimack.

Senator Currier moved adoption.

Adopted.

LATE SESSION RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, March 28, 1996 at 10:00 a.m.

Adopted.

Adjournment.

March 28, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

I hope you aren't waiting till next time to see the comet, because I hear it won't be around again for about eighteen thousand years. More than forty years ago the National Geographic magazine had in it an article about comets. In describing the makeup of these spectacular heavenly travelers, the magazine said, "comets are the nearest thing to nothing that anything can be and still be something." Your job for us is to be certain that no piece of legislation passes by this chamber like a comet: bright and flashy – but at its core, pretty empty. Please pray with me:

Lord, of long ago and Lord of far from now, give each senator here upward-looking eyes so that they can see that broader, wider, deeper and fuller view of reality that will allow them to decide each thing before them today in ways that could last till the comet comes around once again.

Amen

Senator Pignatelli led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

HB 1160, an act establishing a committee to study college tuition savings plans for New Hampshire colleges. Education Committee. Vote: 6-0. Ought to pass. Senator Larsen for the committee.

SENATOR LARSEN: HB 1160 establishes a committee to look at creating prepaid tuition plans for New Hampshire residents who attend New Hampshire colleges. All of us know the difficulty that middle income families are having in paying for the education of their kids through the college upper levels. This would look at a way to create prepaid tuition plans to allow people to begin saving in their early years for their children's tuition in a way that saves them perhaps on taxes. There are many different plans in effect for prepaid tuition plans in 15 states. This committee would investigate which plan or combination of plans, if any, might work for New Hampshire. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1274-FN, an act relative to rights-of-way to certain bodies of water. Environment Committee. Vote: 4-0. Ought to pass. Senator Pignatelli for the committee.

SENATOR PIGNATELLI: HB 1274 is the result of an LBA audit of the Department of Transportation. It repeals the right-of-way board, which has been inactive for several years. The LBA anticipates that this bill will save approximately \$10,000 a year for the fiscal years 1996-2000. The Environment Committee unanimously recommends this bill as ought to pass. Thank you.

Adopted.

Ordered to third reading.

HB 1476, an act delaying the startup of the emissions testing program and requiring the commissioner of the department of safety to study and recommend statutory changes to reflect federal changes in the motor vehicle inspection and maintenance emissions testing program. Environment Committee. Vote: 6-0. Ought to pass. Senator F. King for the committee.

SENATOR F. KING: HB 1476 delays the emissions testing program for two years. It also enables the Department of Safety in consultation with the Department of Environmental Services to study the changes being made on the federal level in regard to this program. The department is expected to recommend any statutory changes which may be necessary. The committee unanimously recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1599-FN, an act postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years. Environment Committee. Vote: 6-0. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: HB 1599 postpones the implementation of alternative fuel requirements for motor vehicle fleets requirements for two years because the federal administrative rules governing this program are still in development. This bill also requires the Department of Environmental Services to study alternatives to the clean fuel fleet program. This Senate has already passed early, similar legislation. The Environment Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 501-FN-L, an act relative to public employee collective bargaining. Executive Departments and Environment Committee. Vote: 4-1. Inexpedient to legislate. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill would require that local governing bodies submit collective bargaining agreements to special meetings within 90 days of the agreement. It is a requirement and the committee believes that this is a clear violation of 28-a. We thought that it was an unwise policy, so we recommend it as inexpedient to legislate.

SUBSTITUTE MOTION

Senator Larsen moved to **substitute ought to pass for inexpedient to legislate.**

SENATOR LARSEN: HB 501 was reported out of the committee as inexpedient to legislate. I would urge that the Senate defeat this motion and I move that the bill be ought to pass. This bill deals with collective bargaining agreements between towns and their public employees. Those of us who come from cities, know that in a city, a city council reviews the collective bargaining agreement and there are certain deadlines by which we must do that, and they are fairly soon after a collective bargaining agreement has been reached. In the towns, however, there has never been a clarification as to when the collective bargaining must take place. HB 501 was an agreement worked out by members in the House to set a date by which a town would need to review a collective bargaining agreement which has been reached through great effort and represents the agreement of people who may, given eleven months to reconsider, find a prob-

lem with the agreement. This collective bargaining agreement in the towns, represents months of work between the labor and management. They have to be approved by the voters of the town before they can be implemented. HB 501 is supported by the Department of Revenue because the Department of Revenue came to our committee and said that they need a date fixed by which the towns meet and decide, because currently, we have difficulty setting the tax rate in towns. HB 501 clarifies this. It is designed to eliminate the confusion that has been inserted in the process through what is known as judge shopping. Certain superior court judges will not grant authority for emergency meetings to deal with the issues, so there has been a reliance on judge shopping, waiting for the right superior court judge to come through, who will allow an emergency meeting. This process has not worked. HB 501 helps towns avoid what the (PELRB) Public Employees Labor Relations Board has deemed an unfair labor practice. If the voters can only vote once a year at an annual town meeting, there will surely be dramatic increases in complaints brought to the PELRB. This bill would give the towns the opportunity to deal with their labor agreements responsibly and quickly. It will allow towns to maintain good relationships with their employees. A vote against this bill is not in the best interest of anyone but those who fear the voice of the people. I urge you to support the motion of ought to pass on this bill.

Recess.

Out of recess.

Senator Blaisdell moved to have **HB 501-FN-L**, an act relative to public employee collective bargaining, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 501-FN-L, an act relative to public employee collective bargaining.

HB 1142, an act relative to disclosure language contained in agreements to locate abandoned property. Executive Departments and Environment Committee. Vote: 5-0. Inexpedient to legislate. Senator Rodeschin for the committee.

SENATOR RODESCHIN: HB 1142 attempts to change the law that was passed last session. The law has a compromise that has yet had a chance to be observed in operation. If there is a problem, we will fix it. There is no problem today. The committee told this bill to get lost and voted inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1181, an act establishing a committee to study issues regarding the administrative practices of boards which regulate occupations and professions in New Hampshire. Executive Departments and Environment Committee. Vote: 5-0. Inexpedient to legislate. Senator Colantuono for the committee.

SENATOR COLANTUONO: The committee believed that studying this issue would be of no use because it is an issue that has been around for many years, it has been studied many times, there is really no practical solution in certain cases, to consolidating boards and commissions. For those reasons, the committee recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

TAKEN OFF THE TABLE

Senator Barnes moved to have **HB 501-FN-L**, an act relative to public employee collective bargaining, taken off the table.

Adopted.

Question is on the substitute motion of ought to pass.

A roll call was requested by Senator Larsen.

Seconded by Senator Pignatelli.

Paired votes: Senators Fraser and J. King.

The following Senators voted Yes: Blaisdell, Pignatelli, Larsen, Shaheen, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Barnes, Russman, Danais, Delahunty, Keough.

Yeas: 5 - Nays: 17

Motion of ought to pass failed.

Question is on the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1259, an act allowing independent professionals to be owners of professional corporations or professional limited liability companies. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass. Senator Larsen for the committee.

SENATOR LARSEN: HB 1259 recognizes and legitimizes a practice that is presently already allowed by the Secretary of State. Currently, independent professionals are allowed to be owners of professional corporations today. This bill makes the statutes in essence . . . it legitimizes the practice as lawful. The committee voted this bill as ought to pass.

Adopted.**Ordered to third reading.**

HB 1268, an act relative to the method for repealing a zoning ordinance and defining a person aggrieved in an appeal from a decision on motion for rehearing. Executive Departments and Environment Committee. Vote: 5-0. Ought to pass. Senator Danais for the committee.

SENATOR DANAIS: This bill is designed to remove some statutory confusion regarding who may pursue an appeal of a zoning ordinance. The bill was supported by the New Hampshire Municipal Association. The committee voted ought to pass.

Adopted.**Ordered to third reading.**

HB 1224-FN, an act authorizing the state to acquire certain property adjacent to Black Mountain State Forest. Fish and Game/Recreation Committee. Vote: 4-0. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: This bill authorizes the Department of Resources and Economic Development to purchase or acquire an interest in certain property adjacent to the Black Mountain State Forest in Haverhill near the Chippewa Trail. This bill helps add to the park and was voted ought to pass by the committee and there are no dollars in it.

Adopted.**Ordered to third reading.**

HB 1492, an act authorizing a city, town, or the state to allow the operation of OHRVs on certain sidewalks. Fish and Game/Recreation Committee. Vote: 4-0. Ought to pass with amendment. Senator Danaïs for the committee.

5365L

Amendment to HB 1492

Amend the bill by replacing section 3 with the following:

3 New Subparagraph; Sidewalks. Amend RSA 236:56, II by inserting after subparagraph (d) the following new subparagraph:

(e) Sidewalks. The operation of OHRVs may be allowed on sidewalks adjacent to Class I, II, III, and III-a highways upon the request of a town or city after consultation with the bureau of trails and with the approval of the department of transportation.

SENATOR DANAIS: This bill is designed to allow snowmobiles to cross sidewalks to have access to gas stations. The snowmobile riders of the state come into the cities and towns during their rides. This bill will allow the cities and towns to make it permissible to cross sidewalks to refuel, stop at restaurants and to avail themselves to the services in the cities and towns.

Amendment adopted.

Ordered to third reading.

HB 1112, an act establishing a committee to study the investment practices of the New Hampshire retirement system. Insurance Committee. Vote: 4-2-1 abstaining. Inexpedient to legislate. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, this bill would have created another study committee to study the investment practices of the New Hampshire retirement system. The Insurance Committee feels that such a study is unnecessary. The New Hampshire retirement system is regularly audited and we have it in the Fiscal Committee, and those audits have shown very minor issues of concern, if any, which reinforces the view that New Hampshire has one of the strongest retirement system investments in the country, and it is probably one or two in the country, I think that probably the Insurance Committee felt that it was about time that we stop trying to micro-manage the investment practices of the system and let it continue to do a great job that it is currently doing. The committee recommends this bill as inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1140-FN, an act repealing the health insurance coverage survey. Insurance Committee. Vote: 7-0. Ought to pass. Senator Danaïs for the committee.

SENATOR DANAIS: HB 1140 will repeal the health insurance group coverage survey. This survey required the Department of Administrative Services to compile information about all members of the state Group Health Insurance plan annually. The object was to see if ghost people were put into the state's insurance role. Since the inception of this survey, it has been found that there is not a problem. The survey is now unnecessary and it is costing the Department of Administrative Services time and money. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1509, an act making certain retired physicians immune from civil liability for volunteer health education services. Insurance Committee. Vote: 6-1 abstaining. Ought to pass. Senator Shaheen for the committee.

SUBSTITUTE MOTION

Senator Shaheen moved to **substitute Recommit for Ought to Pass.**

Adopted.

HB 1509 is recommitted.

HB 1522 FN, an act establishing a committee to review the medicaid rate setting methodology. Insurance Committee. Vote: 6-1 abstaining. Ought to pass with amendment. Senator Danaïs for the committee.

5316L

Amendment to HB 1522-FN

Amend paragraph II of section 1 of the bill by replacing it with the following:

II. The committee shall be composed of the following:

(a) Three senators, one of whom shall be a member of the insurance committee, and one of whom shall be a member of the finance committee, appointed by the senate president.

(b) Three representatives, 2 of whom shall be members of the health, human services and elderly affairs committee and one of whom shall be a member of the finance committee, appointed by the speaker of the house.

SENATOR DANAIS: HB 1522 establishes a study committee to examine the rates of Medicaid reimbursement for home health care services. The committee would look into the process that the Department of Health and Human Services uses to set these rates, as well as what the actual cost for the services may be. Home health care is an area in which the health care industry could save policyholders money by allowing patients to stay home and receive care at a rate lower than if they were staying in a hospital. The committee believes that the issue is important enough to warrant a study, and has recommended the bill as ought to pass as amended. The amendment changes the membership of the committee to even the membership at three from the House and three from the Senate.

Amendment adopted.

Ordered to third reading.

HB 1307, an act relative to the interstate emergency management compact. Interstate Cooperation Committee. Vote: 4-0. Ought to pass. Senator F. King for the committee.

SENATOR F. KING: HB 1307 rewrites the interstate civil defense compact RSA 108 by modernizing the compact and bringing it up to today's standards. The statute hasn't been changed since the fifties and it needs revision today to deal with today's world. This bill would have the compact address such issues as hazardous materials, emergency management planning and liability between states. The bill is a reaction to the disasters in this country which more and more are drawing emergency response from more than one state. A prime example is the fires at Malden Mills in Massachusetts in which many units from New Hampshire did respond. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1161, an act relative to the information required on the state primary and state general election ballots, voter checklists of cities and towns, candidate and party nominations, nomination papers, and absentee ballots. Public Affairs Committee. Vote: 6-0. Ought to pass. Senator Larsen for the committee.

SENATOR LARSEN: HB 1161 repeals the requirements that towns hold two work sessions on a voter checklist prior to an election. Since we have had same-day registration, which passed in 1994, two work sessions are no longer necessary. Towns reported that it is a waste of time requiring the supervisor of the checklist to hold two meetings. HB 1161 requires that only one work session be held ten days prior to an election. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1271-FN, an act relative to exposure to infectious disease. Public Institutions, Health and Human Services Committee. Vote: 6-0. Ought to pass. Senator Lovejoy for the committee.

SENATOR LOVEJOY: Mr. President, HB 1271 simply expands existing RSA 141-G to include public protection if an exposure occurs. These correction officials have been unofficially part of the RSA 141-G for the past several years through the rule making process. This bill will include them statutorily. The Public Institutions Committee recommends ought to pass unanimously.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 647-FN-A, an act establishing a municipal bridge repair and a department of transportation "on the shelf" program and continually appropriating the municipal bridge repair and the department of transportation "on the shelf" account and relative to the payment of certain bonds. Transportation Committee. Vote: 5-0. Ought to pass with amendment. Senator Gordon for the committee.

5422L

Amendment to HB 647-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to transfers from the highway surplus account and
relative to tolls charged on the Cheshire Bridge.

Amend the bill by replacing all after the enacting clause with the following:

I Transfers From Highway Surplus Account. Notwithstanding any provision of law to the contrary, for fiscal year 1996, funds shall be appropriated and transferred from the highway surplus account as follows:

I. \$500,000 shall be transferred to the department of transportation for the purchase and maintenance of computer equipment and data management inventory. Such funds shall be available for expenditure in fiscal year 1997.

II. \$2,000,000 shall be transferred to the equipment and inventory fund, established in RSA 228:24-b. Such funds shall be available for expenditure in fiscal year 1997.

III. \$2,000,000 shall be transferred for the purposes of municipal bridge repair as authorized in RSA 234:10.

IV. \$10,500,000 shall be transferred to the highway and bridge betterment account established in RSA 235:23-a.

2 Interest. Amend 1988, 251:3, I as amended by 1991, 318:3, I to read as follows:

I. The payment of principal and interest of the bonds and notes issued for the purchase and rehabilitation of the Cheshire Bridge authorized in section 1 of this act shall be made when due from tolls and user fees collected on said bridge. The state treasurer is authorized to establish a special account for this purpose. ***Any interest earned on the tolls so collected shall remain with the toll account and be available to pay debt service on any bonds or notes issued for the purposes of section 2 of this act or for operation and maintenance under RSA 251:3, II.***

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill requires certain transfers to be made from the highway surplus accounts for fiscal year 1996.

The bill also clarifies interest income resulting from tolls charged on the Cheshire Bridge.

SENATOR GORDON: HB 647 appropriates money from the \$30 million highway fund surplus for the purposes of funding badly needed highway repairs. Two million dollars will be used for the equipment inventory fund to replace and upgrade vehicles and equipment, in the so-called orange fleet. Another \$2 million will be used for the municipal bridge fund. This should fund all of the projects that have been applied for by our local communities. Five hundred thousand dollars will go toward replacing outdated computer equipment at the Department of Transportation and \$10.5 million will be placed in the highway and bridge betterment funds to work on repairing many of the roads that have been destroyed as the result of the harsh winter that we have had. The bill also allows interest income resulting from tolls charged on the Cheshire bridge to be used toward the debt service on the bridge. This should clear up the debt for the bridge one-and-a-half years earlier than expected. The Transportation Committee recommends this bill as ought to pass with amendment.

Amendment adopted.

Referred to the Capital Budget Committee (Rule #24).

HB 1129, an act relative to the Laconia airport authority and relative to the Manchester airport. Transportation Committee. Vote: 7-0. Ought to pass with amendment. Senator Gordon for the committee.

5379L

Amendment to HB 1129

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect 60 days after its passage.

SENATOR GORDON: HB 1129 increases the fines for rules violations for the Laconia Airport. The current fine, established in 1941 is only ten dollars. This is not a compelling enough fine to force people to correct their dangerous, and sometimes risky, behavior. It is believed that a more substantial fine would be more effective in altering these behaviors. The second section of the bill adds a member from the town of Merrimack to

the Manchester Airport Task Force because access through this town is presently being considered. The committee recommends HB 1129 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1146, an act relative to school bus safety and exempting certain buses from the road toll. Transportation Committee. Vote: 4-0. Ought to pass. Senator Stawasz for the committee.

SENATOR STAWASZ: HB 1146 exempts commercially plated school buses from paying a road toll while transporting school children to and from school and school-related activities. This removes a long and complicated administrative process for these privately owned bus companies attempting to recover the money they are currently being charged. Existing law extends this exemption to publicly owned school buses only. The Transportation Committee recommends HB 1146 as ought to pass.

Adopted.

Ordered to third reading.

HB 1171-FN, an act relative to fees for number plates. Transportation Committee. Vote: 5-0. Ought to pass. Senator Gordon for the committee.

SENATOR GORDON: HB 1171 increases the fee for number plates from \$1.50 to \$2.50. The Department of Safety indicated that this fee has not been raised since 1985, yet the cost of printing a license plate has increased substantially during that time frame. According to the contingency clause added by the House Finance Committee, this increase will not become effective until a new general issue of plates is authorized. The current issue of plates has been in existence at least seven years, which is considered to be near the maximum life of a plate. The Transportation Committee recommends this bill as ought to pass and recommends that it go to the Finance Committee for consideration.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 1172, an act relative to bridge regulations. Transportation Committee. Vote: 5-0. Ought to pass. Senator Cohen for the committee.

SENATOR COHEN: HB 1172 updates the statutes by allowing municipalities to establish speed limits on municipally owned and maintained bridges. Current language is very outdated. It also repeals several archaic transportation statutes relative to posting and lighting. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1197-L, an act reclassifying certain roads in the towns of Boscawen and Hampstead. Transportation Committee. Vote: 6-0. Ought to pass. Senator Russman for the committee.

SENATOR RUSSMAN: HB 1197 transfers the control of two roads from the state to the towns of Boscawen and Hampstead. The Department of Transportation agreed to completely renovate these roads if the towns would commit to performing all future maintenance. Both upgrade projects were completed this fall and this bill affects the transfer. We urge passage, although it may be interesting to note, that I am not sure if

eventually all of the roads in the state will go to the towns if they get upgraded, so that there would be no more state roads, interesting concept, but we, certainly in this case, urge passage of the bill. Thank you.

Adopted.

Ordered to third reading.

HB 1244-FN, an act relative to aeronautical carriers. Transportation Committee. Vote: 7-0. Ought to pass. Senator Gordon for the committee.

SENATOR GORDON: HB 1244 is a result of an LBA audit. It simply repeals a dedicated fund relative to aeronautical carriers. The department has not made use of this dedicated fund in many years. The Transportation Committee unanimously recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1426, an act allowing the acquisition of certain easements near newly-constructed limited access highways. Transportation Committee. Vote: 5-0. Ought to pass. Senator F. King for the committee.

SENATOR F. KING: HB 1426 gives the Department of Transportation more flexibility in acquiring property easements. The current statute only permits acquisition fee simple, along limited access highways. The option to acquire easements is anticipated to save a significant amount of money and may result in less opposition from land owners. The Transportation Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1505-A, an act expanding the authority of the commissioner of the department of transportation to use a certain appropriation to purchase airports. Transportation Committee. Vote: 5-0. Ought to pass with amendment. Senator Gordon for the committee.

5419L

Amendment to HB 1505-A

Amend the title of the bill by replacing it with the following:

AN ACT

making an appropriation to acquire privately-owned
airports offered for sale.

Amend the bill by replacing all after the enacting clause with the following:

1 Appropriation; Department of Transportation. There is hereby appropriated to the department of transportation, for the purposes of purchasing privately-owned airports offered under RSA 422:46, the sum of \$3,000,000 for the fiscal year ending June 30, 1997, to be expended for acquisition of these properties, as they become available. This sum shall be in addition to any other funds appropriated to the department of transportation. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated. This appropriation shall be nonlapsing.

2 Bonds Authorized. To provide funds for the appropriation made in section 1 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$3,000,000 and for said purpose may issue bonds and notes in the name of and on behalf of

the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the general funds of the state. The bonds shall be 5-year bonds.

3 Effective Date. This act shall take effect July 1, 1996.

AMENDED ANALYSIS

This bill appropriates \$3,000,000 to the department of transportation for the fiscal year ending June 30, 1997, for the purpose of purchasing privately-owned airports offered for sale. The funds may be used for acquisition in accordance with purposes and procedures outlined in RSA 422:46.

This bill is a request of the department of transportation.

3 Effective Date. This act shall take effect 60 days after its passage.

SENATOR GORDON: As amended, HB 1505 creates a \$3 million nonlapsing fund which will allow the Department of Transportation to purchase privately owned airports as they become available. There is concern that the state might lose many of its smaller airport facilities and landing strips to commercial developers. Testimony suggested that a solid network of airports is necessary for economic stability and vitality throughout the state. HB 1505 would let the department respond quickly and without legislation, if one of these airports should become available. The Transportation Committee recommends this bill as ought to pass as amended.

SENATOR COLANTUONO: Senator Gordon, are there airports right now that are available for sale?

SENATOR GORDON: There was no specific testimony as to airports that are currently available for sale. There was testimony in regard to airports that may have been available in the past which we were unable to avail ourselves of.

SENATOR LARSEN: I am wondering, currently the state has some monies for the purchase of rail or trails purposes, does this cut into the appropriation of rail or trail purchase monies?

SENATOR GORDON: When this bill started its career in the House, it was a separate fund, just as we have amended this bill to create a separate fund. The House of Representatives in passing the legislation, amended the bill to make the funding of purchase for airports competitive with the purchase of railroad easements and it put the railroad interests and the airport interests at odds. In fact, they would be competing for funding. The Senate Transportation Committee found that would not be an acceptable situation, and that if we were going to be purchasing airports as a matter of policy, that should stand on its own and should be separately funded. So we put the bill back in a form where there would be a separate fund, independent, for the purchase and acquisition of airports. We voted that out of the Transportation Committee as a matter of policy, and it would go to the Capital Budget Committee to make determinations as to funding.

SENATOR J. KING: Once the state does purchase one of these, what is the next step, do we own it? Do we support it? Do we build it? What do we do with it?

SENATOR GORDON: The testimony that we received in committee was that the state doesn't want to be in the airport business, but it does want to be in the business of preserving access to the communities of our state.

Specific reference was made to communities in the north country, for example, and the fact that we may not have a major airport facility in some parts of the north country where airport access would be important, and if the state should determine that as a matter of state interest, acquisition would be critical to preserve it as opposed to being developed into another use. The state might acquire it, and then preserve the airport, not necessarily continue to operate it indefinitely.

Amendment adopted.

Referred to the Capital Budget Committee (Rule #24).

Senators Colantuono and Wheeler in opposition to HB 1505-A.

HB 1400, an act relative to liquor licensing requirements for veterans' clubs and social clubs. Transportation Committee. Vote: 5-0. Ought to pass with amendment. Senator Danais for the committee.

5414L

Amendment to HB 1400

Amend the title of the bill by replacing it with the following:

AN ACT

relative to liquor licensing requirements for veterans' clubs
and social clubs and relative to liquor licenses
for off-site catering services.

Amend the bill by replacing section 2 with the following:

2 Definition; Caterer-Off Site. Amend RSA 175:1, XV to read as follows:

XV. "Caterer-off site" means:

(a) A person who operates a convention center, restaurant or hotel, and who conducts catering for private functions at off site locations.

(b) *An off-site catering service which is a business held out and advertised to the public which has a permanent non-residential business office with securable beverage and liquor storage areas. With the approval of the commission, an off-site catering service without a kitchen may subcontract for cooking services or the preparing of food. Except as provided in RSA 178:20, V(e)(2), catering services under this paragraph shall sell liquor and beverages only with full course meals.*

3 Licensing Off-Site Catering Services. Amend RSA 178:20, V(e)(2) to read as follows:

(2) The commission may issue a license to any person ***operating an off-site catering service or any person*** holding a full service restaurant license, hotel full service restaurant or convention center license to conduct an off-site catering business on the premises of other licensed establishments or the premises of any public building approved by the commission. For the purposes of this paragraph, persons under the age of 18 shall be allowed in rooms where liquor and beverages are sold. A license issued under the provisions of this paragraph shall allow the licensee to serve liquor and beverages with or without meals to members of a private party contracting for such service. Such caterers shall notify the commission not less than 5 days in advance of a function specifying the date, time and location of the scheduled function. New premises and locations shall be approved by the commission at least 10 days before the scheduled event.

4 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill exempts veterans' clubs from certain liquor licensing requirements for veterans clubs and social clubs. The bill also expands the definition of "caterer-off site" for purposes of liquor licensing.

SENATOR DANAIS: HB 1400 as amended, merely repeals certain liquor license requirements for veterans clubs and social clubs which were enacted in the 1995 legislative session. It expands the definition of "caterer-off site" for liquor licensing. An off site catering service shall include a business held out and advertised to the public, which has a permanent nonresidential business office with securable beverage and liquor storage areas, with the exceptions that the catering services under this paragraph shall sell liquor and beverages only with full-course meals with approval from the commission. An off site caterer without a kitchen may subcontract for cooking services. The Ways and Means Committee urges ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1558-FN-L, an act establishing a study committee on taxation of real estate which does not receive municipal services. Transportation Committee. Vote: 4-2. Inexpedient to legislate. Senator Currier for the committee.

SENATOR CURRIER: There has been some discussion relative to this bill since the public hearing and we would like to table the bill.

Senator Blaisdell moved to have **HB 1558-FN-L**, an act establishing a study committee on taxation of real estate which does not receive municipal services, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1558-FN-L, an act establishing a study committee on taxation of real estate which does not receive municipal services.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn; we adjourn until Tuesday, April 2, 1996 at 10:00 a.m.

Adopted.

ANNOUNCEMENTS

LATE SESSION

Third Reading and Final Passage

HB 1129, an act relative to the Laconia airport authority and relative to the Manchester airport.

HB 1140-FN, an act repealing the health insurance coverage survey.

HB 1146, an act relative to school bus safety and exempting certain buses from the road toll.

HB 1160, an act establishing a committee to study college tuition savings plans for New Hampshire colleges.

HB 1161, an act relative to the information required on the state primary and state general election ballots, voter checklists of cities and towns, candidate and party nominations, nomination papers, and absentee ballots.

HB 1172, an act relative to bridge regulations.

HB 1197-L, an act reclassifying certain roads in the towns of Boscawen and Hampstead.

HB 1224-FN, an act authorizing the state to acquire certain property adjacent to Black Mountain State Forest.

HB 1244-FN, an act relative to aeronautical carriers.

HB 1259, an act allowing independent professionals to be owners of professional corporations or professional limited liability companies.

HB 1268, an act relative to the method for repealing a zoning ordinance and defining a person aggrieved in an appeal from a decision on motion for rehearing.

HB 1274-FN, an act relative to rights-of-way to certain bodies of water.

HB 1307, an act relative to the interstate emergency management compact.

HB 1400, an act relative to liquor licensing requirements for veterans' clubs and social clubs.

HB 1426, an act allowing the acquisition of certain easements near newly-constructed limited access highways.

HB 1476, an act delaying the startup of the emissions testing program and requiring the commissioner of the department of safety to study and recommend statutory changes to reflect federal changes in the motor vehicle inspection and maintenance emissions testing program.

HB 1492, an act authorizing a city, town, or the state to allow the operation of OHRVs on certain sidewalks.

HB 1522 FN, an act establishing a committee to review the medicaid rate setting methodology.

HB 1599-FN, an act postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years.

Senator J. King moved that the Senate now adjourn until Tuesday, April 2, 1996 at 10:00 a.m.

Adopted.

Adjournment.

April 2, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

You are the leaders, not our followers. We picked you to lead along with the House, along with the governor, along with the federal and local governments. How you function in here is a statement of how you believe we should function out there. We are watching, so make sure you mean what you are saying - and thank you so much for being our leaders. You are off to a much better start than the Red Sox.

Lord, You are the one who set it up so that crocuses and daffodils lead the way from winter into spring. You are the one who orders purple and orange and yellow to appear suddenly in the midst of the mud. Give to the members of the Senate, the senate staff, the media and even to the lobbyists, eyes to see the colors of Your priorities in the midst of the mud fields that surround us - and to lead us in that direction. Amen

Senator Cohen led the Pledge of Allegiance.

INTRODUCTION OF GUESTS NOTICE OF RECONSIDERATION

Senator Colantuono served notice of reconsideration on **HB 1400**, relative to liquor licensing requirements for veterans' clubs and social clubs.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 549, relative to the children's trust fund.

Senator Fraser moved concurrence.

Adopted.

COMMITTEE REPORTS

HB 1463-L, an act giving municipalities bonding authority for economic development purposes in certain situations. Economic Development Committee. Vote: 5-0. Ought to pass. Senator Danaïs for the committee.

SENATOR DANAÏS: Up until now, whenever a municipality wanted to go look for an economic development or bonds for that purpose, they had to come to the state legislature because that was the constitution. What this does is give the municipalities the bonding authority among themselves for economic development purposes. It is a great way for the municipalities to go forward and to help them improve their own districts. It was voted unanimously out of committee as ought to pass.

Adopted.

Ordered to third reading.

HB 281, an act relative to admission requirements for the veterans' home and changing the composition of the board of managers. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Rodeschin for the committee.

5437L

Amendment to HB 281

Amend the title of the bill by replacing it with the following:

AN ACT
changing the composition of the board of
managers of the veterans' home.

Amend the bill by deleting section 1 and renumbering sections 2-3 to read as 1-2, respectively.

Amend RSA 119:2, II as inserted by section 1 of the bill by replacing it with the following:

II. At least [4] 5 of the appointed citizens [must] *shall* have served in the armed forces of the United States in any war in which the United

States has been, is, or shall be engaged, and who are, or shall be, honorably discharged or separated from the armed forces under conditions other than dishonorable[; and provided further that]. One appointee shall be a member in good standing of the department of the American Legion, one of the department of the Veterans of Foreign Wars, one of the department of the Disabled American Veterans and [one of the department of the Veterans of World War I of the U.S.A., Inc] **2 shall be active members of recognized and chartered veterans service organizations, with preference given to World War I veterans.** The [fifth] **sixth** appointee shall be a [woman] **female** member in good standing of the department of the American Legion Auxiliary, the department of the Veterans of Foreign Wars Auxiliary, [and] the department of the Disabled American Veterans Auxiliary [and], **or** the department of the Veterans of World War I of the U.S.A., Inc. Auxiliary. **One member in good standing of the department of the Veterans of World War I of the U.S.A., Inc., shall serve as a member emeritus to the board.**

AMENDED ANALYSIS

This bill changes the composition of the board of managers of the veterans' home.

SENATOR RODESCHIN: This bill was put in to allow spouses of veterans to reside with the resident veteran at the New Hampshire Veterans' Home. The committee felt that the New Hampshire Veterans' Home was already short of space and any more pressure on the rooms available would certainly lead to an acute need for expansion. It also removed the one-year residency requirement. The amended bill removes the World War I veteran from the board and makes that position director. That is all that it does.

Amendment adopted.

Ordered to third reading.

HB 471-FN, an act relative to the department of corrections, including a corrections impact statement and submission of correctional reports, abolishing the division of adult services, and changing the title of the warden of the department of corrections. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Larsen for the committee.

5439L

Amendment to HB 471-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the department of corrections, including a corrections impact statement, abolishing the division of adult services, and changing the title of the warden of the department of corrections.

Amend the bill by deleting section 4 and renumbering the original sections 5-10 to read as 4-9, respectively.

AMENDED ANALYSIS

This bill:

I. Requires a fiscal note which reflects an impact on the corrections system to include an estimated impact upon prosecution, incarceration, probation, and parole costs.

II. Abolishes the division of adult services, the division of institutional services.

III. Changes the title of the director of adult services/warden to warden, department of corrections.

SENATOR LARSEN: HB 471 addresses the findings of an LBA audit. The Department of Corrections has expanded over the last ten years and this bill addresses the changes required to make the department more accountable. The amendment to the bill removes the added paper requirement which would have required the counties to report to the department. We heard in committee, that the level of cooperation between the counties and the Department of Corrections is good enough, the committee felt that the requirement for the counties to do regular reporting wasn't necessary. The committee voted this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1118-FN, an act establishing a committee to study issues relative to groups and salary ranges which reflect the responsibilities of unclassified employees, excepting the constitutional officers. Executive Departments and Administration Committee. Vote: 4-0. Interim study. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill started in the House as a bill to give some increases to certain specific unclassified employees. The House changed it into a general study of the whole unclassified system. The Senate ED & A Committee heard testimony that a consultant was hired several years ago to do such a study and we spent a significant amount of money to do that but nothing ever came forward because of the political difficulties in trying to change that system around. The ED & A Committee believed that an interim study motion would be appropriate in order to keep the issue alive, but to allow the House ED & A Committee to study this if it wishes, because the Senate didn't believe that it would be prudent at this time to study that issue. We believe that certain employees who deserve an increase should get it by specific legislation, but we didn't think a whole study was warranted at this time.

Committee report of interim study is adopted.

HB 1170, an act prohibiting a sworn law enforcement officer from holding a private detective's license. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill prohibits a sworn law enforcement officer working for the state or local government from also holding a private detective's license at the same time. The committee heard testimony that there are certain individuals abusing the privilege by using their access to official records to promote their private detective work and also doing private detective work on official time. It was the feeling of the law enforcement, who requested this bill, that it was better to have a clean break between the two professions, so the committee recommends ought to pass.

Recess.

Senator Lovejoy in the Chair.

Adopted.

Ordered to third reading.

HB 1175, an act repealing the law requiring general court members to list emergency interim successors, repealing the law establishing a joint committee on implementation of reorganization relative to the executive branch, and allowing the governor to appoint a designee on the local government advisory committee. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: The ED & A recommends ought to pass on HB 1175. All that it does is to repeal the section where the legislators are required to fill forms on their successors if something happened. We found that only 40 percent fill out their forms. It also repeals the law which is reorganization if an A bomb falls in Concord. The third section allows the governor to appoint a designee for the advisory committee.

Adopted.

Ordered to third reading.

HB 1180, relative to the rulemaking authority of the commissioner of transportation relating to the turnpike system. Executive Departments and Administration Committee. Vote: 4-0. Ought to pass with amendment. Senator Stawasz for the committee.

5417L

Amendment to HB 1180

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the rulemaking authority of the commissioner of
transportation relating to the turnpike system and
relative to the duration of state
registration certificates.

Amend the bill by replacing section 3 with the following:

3 New Paragraph; Duties of Commissioner. Amend RSA 422:14 by inserting after paragraph V the following new paragraph:

VI. Effecting uniformity in the regulations pertaining to the operation of aircraft by adopting uniform rules consistent with federal regulations and making noncompliance with federal regulations violation of state law, thereby enabling the law enforcement agencies of the state to enforce the laws regulating the operation of aircraft. For the purposes of this paragraph, aircraft shall include ultra light vehicles as defined in 14 C.F.R., part 103.

4 Duration of Certificates Changed. RSA 422:28 is repealed and reenacted to read as follows:

422:28 Duration of Certificates.

I. A state registration certificate shall normally remain in force for one year following the date of its issue unless it is an aircraft registered out of cycle, in which case paragraph IV shall apply, except for airman registration which shall remain in force for 4 years and which shall expire on the last day of the month of the fourth anniversary of the airman's date of birth after the date the certificate was issued or until sooner suspended, revoked, or canceled.

II. Effective dates for state aircraft registration certificates shall be the first day of the month and continue through the last day of the following twelfth month and shall be based upon the first numeral of the aircraft federal registration mark or N number so that registration for aircraft with N numbers beginning with the numeral 1 shall become effective on January 1 of a year and end December 31 of the same year and

aircraft with N numbers beginning with the numeral 2 shall become effective on February 1 of a year and end January 31 of the subsequent year, and so forth.

III. The effective date for commercial operator certificates and landing area registrations shall be January 1 of each year.

IV. Registration fees shall be prorated if for shorter or longer periods. If an original aircraft registration is issued in one of the next 3 months preceding and including the month corresponding to the first numeral of the aircraft N number, the registration shall expire on the last day of the second anniversary of the month corresponding to the first numeral of the aircraft N number.

5 Effective Date.

I. Section 4 of this act shall take effect January 1, 1997.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill makes the rulemaking authority of the commissioner of transportation relating to the turnpike system optional rather than mandatory.

The bill also changes the duration of state registration certificates for aeronautical activities.

SENATOR STAWASZ: This bill makes several technical changes in procedures used in the turnpike and their commercial charge accounts. The committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1329, an act relative to the regulation of massage therapists. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass. Senator Stawasz for the committee.

SENATOR STAWASZ: This bill would change the regulation of Health and Human Services in licensing the facility as well as the massage therapist. The department felt that this was an excessive expenditure of funds for little if any return and that is the basic change. The licensure remains with the individual and they don't have to go and license the facility and inspect it. We recommend ought to pass.

Adopted.

Ordered to third reading.

HB 1496, an act permitting an authorized agent of a veterinarian to dispense non-controlled prescription drugs. Fish and Game/Recreation Committee. Vote: 6-0. Ought to pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill allows veterinarians to dispense noncontrolled drugs if they are not present. This bill also allows clients to pick up prescriptions at the veterinarian's office if the veterinarian is not present. Technically this process was against the rules of the pharmacy board. The committee voted ought to pass.

Adopted.

Ordered to third reading.

HB 1601, an act extending the reporting date for the pet overpopulation committee. Fish and Game/Recreation Committee. Vote: 6-0. Ought to pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, HB 1601, this bill extends the reporting deadline for the pet overpopulation committee. The committee has done great work and this bill extends the committee's reporting date from November 1, 1995 to November 1, 1997. The committee voted ought to pass.

Adopted.

Ordered to third reading.

HB 1143, an act increasing the civil penalties for violations of certain labor statutes and authorizing the commissioner of labor to seek injunctions against noncomplying employers or owners. Insurance Committee. Vote: 5-0. Ought to pass. Senator Danaïs for the committee.

SENATOR DANAÏS: This bill adds teeth to the Labor Department when they impose civil penalties. The maximum fine is raised from \$500 to \$1,000 for violations. This bill also authorizes the commission to seek injunctions from the Superior Court against employers who do not comply with labor laws. The commissioner must have the consent of the attorney general to seek these injunctions. The bill stipulates that these injunctions shall not be sought exparte. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1375, an act relative to penalties under the workers' compensation law. Insurance Committee. Vote: 5-0. Ought to pass. Senator F. King for the committee.

SENATOR F. KING: This bill allows the Insurance Commissioner to levy civil penalties of up to \$2,500 on any insurance carrier that fails to pay a medical bill or deny payment of a medical bill within 30 days of receipt of the bill. This bill protects consumers by helping to ensure timely payments by insurance companies. It also benefits the health care providers because they won't have to carry accounts receivable for long periods of time. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1144, an act relative to criminal threatening. Judiciary Committee. Vote: 5-0. Ought to pass. Senator Pignatelli for the committee.

SENATOR PIGNATELLI: Mr. President and members of the Senate, HB 1144 adds language to the criminal threatening statute making it an offense for a person to place an object or graffiti on the property of another with the purpose to coerce and terrorize any person. The committee voted this as ought to pass 5-0 and we hope that you pass this bill. Thank you.

Adopted.

Ordered to third reading.

HB 1151, an act relative to penalties for persons convicted of class B misdemeanors and violations and relative to parole revocation hearings. Judiciary Committee. Vote: 4-0. Ought to pass with amendment. Senator Podles for the committee.

5453L

Amendment to HB 1151

Amend the bill by replacing section 1 with the following:

1 Classification of Crimes. Amend the introductory paragraph of RSA 625:9, VII to read as follows:

VII. The state may change any offense designated or defined as a class A misdemeanor as defined by paragraph IV to a class B misdemeanor, *so long as no element of the offense involves an act of violence or threat of violence. For purposes of this paragraph, the term "act of violence" means attempting to cause or purposely or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon; and the term "threat of violence" means placing or attempting to place another in fear of imminent bodily injury either by physical menace or by threats to commit a crime against the person of the other. The state may change an offense pursuant to this paragraph* if such change is in the interest of public safety and welfare and is not inconsistent with the societal goals of deterrence and prevention of recidivism, as follows:

AMENDED ANALYSIS

Section 1 of this bill prohibits the reclassification of a class A misdemeanor to a class B misdemeanor if an element of the offense involves an act of violence or threat of violence as defined in that section.

Sections 2 and 3 of this bill prohibit a person convicted of a class B misdemeanor or violation from being placed on probation. Section 10 of the bill changes the time period within which a parolee arrested for a parole violation is entitled to a parole revocation hearing from 30 days to 45 days.

The remainder of this bill amends certain RSA provisions making them gender neutral and consistent with other sections amended by the bill in accordance with RSA 17-A:6 relative to gender neutral drafting.

SENATOR PODLES: Mr. President, HB 1151 prohibits the reclassification of a class A misdemeanor to a class B misdemeanor if an element of the offense involves an act of violence or a threat of violence. The amendment defines act of violence and threat of violence to include only matters involving bodily injury. The bill also prohibits a person convicted of a class B misdemeanor or a violation from being placed on probation. It extends from 30 to 45 days the time in which a parolee arrested for a parole violation is entitled to a parole revocation hearing. This last change is needed due to the dramatic increase in the number of parole revocation hearings. The committee recommends ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 1152, an act relative to periodic payments of judgments by civil defendants. Judiciary Committee. Vote: 5-0. Ought to pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, the primary purpose of HB 1152 is to eliminate the obligation of probation officers to inquire into a defendant's ability to make periodic payments for civil judgments. The remainder of the bill simply makes gender-neutral changes to be affected by the statute RSA 524.

Adopted.

Ordered to third reading.

HB 1221, an act relative to operating emergency vehicles while intoxicated. Judiciary Committee. Vote: 4-1. Inexpedient to legislate. Senator Wheeler for the committee.

SENATOR WHEELER: This bill would have prohibited a person with an alcohol concentration of .02 from operating an emergency vehicle. The committee felt that this bill was over restrictive, counter productive and unnecessary. Persons may be called upon to operate an emergency vehicle at any time without prior notice. The committee did not feel that it was necessary to hold these persons to a standard different from the same standard that applies to every other adult.

SENATOR COLANTUONO: This bill basically sets a zero tolerance for persons who operate ambulances and other emergency vehicles, similar to the bill that we passed regarding minors. The policy behind this bill, in my opinion, is a wise idea, because these individuals are operating emergency vehicles at great speeds to try to get to and from their emergencies. I don't think that we want these individuals to have been drinking alcohol before they get behind the wheel. I think that this is a good bill. I would support the bill. Thank you.

Committee report of inexpedient to legislate is adopted.

Senators Colantuono, Larsen and Pignatelli in opposition to the motion of inexpedient to legislate on HB 1221.

HB 1406-FN-A, an act authorizing the commissioner of the department of corrections to transfer funds within the department of corrections budget for funding for the pathways program for the fiscal year 1997. Judiciary Committee. Vote: 5-0. Ought to pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1406 authorizes the commissioner of the Department of Corrections to transfer funds within the department of corrections for funding the pathways program for the fiscal year 1997. The sum shall not exceed \$1.08 million and is to be used for salaries and benefits. The fiscal note, we were told, should be deleted from the bill because no new funds are to be appropriated. The pathways program provides counseling, education, substance abuse treatments and career guidance to inmates at the Lakes Region facility, with the primary goal being the reduction of the average length of stay in prison and resulting reduction in correctional cost. The committee recommends ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 1548, an act relative to county attorneys. Judiciary Committee. Vote: 5-0. Ought to pass with amendment. Senator Gordon for the committee.
5456L

Amendment to HB 1548

Amend the bill by replacing section 3 with the following:

3 Assistant County Attorneys. RSA 7:33-f is repealed and reenacted to read as follows:

7:33-f Assistant County Attorneys Permitted. The county attorney, subject to the approval of the attorney general and the applicable county commissioners, may appoint assistant county attorneys within the limits of the appropriation made for the appointment of assistants. Assistant county attorneys shall serve at the pleasure of the county attorney.

AMENDED ANALYSIS

This bill changes the appointment procedures for assistant county attorneys. It permits a county attorney, with the approval of the attorney general and the applicable county commissioners, to appoint a contract assistant county attorney.

This bill also requires the office of the chief medical examiner to submit claims for fees and expenses to the state treasurer.

This bill is a request of the committee established in 1995, 79:1, to examine the best way to ensure an efficient system of criminal prosecution at the district and superior court level.

SENATOR GORDON: HB 1548 changes the method whereby assistant county attorneys are appointed. Currently assistant county attorneys are appointed by the Superior Court in the counties in which they practice. Under HB 1548 assistant county attorneys would be appointed by the county attorney, subject to the approval of the state attorney general and the county commissioners. The amendment, which has been added, would add the county commissioner's approval to the process. The Judiciary Committee recommends this bill as ought to pass as amended. Thank you very much.

Amendment adopted.

Ordered to third reading.

HB 1119, an act allowing an option for reconsideration of votes at village district meetings and relative to the powers of the town of Conway concerning governance of its fire precincts. Public Affairs Committee. Vote: 6-0. Ought to pass. Senator J. King for the committee.

SENATOR J. KING: HB 1119 corrects an oversight in the statute with regard to optional reconsideration of votes at village district meetings. When optional reconsideration was added to the statutes a few years ago, the term "village district" was inadvertently left out. The second part of HB 1119 exempts certain property in Conway from the portion of the town's tax that goes toward fire protection services provided by the town. The committee recommends this bill as ought to pass.

Recess.

Senator Keough in the Chair.

Adopted.

Ordered to third reading.

HB 1120, an act allowing towns to adopt a warrant article to accept personal property donated to libraries. Public Affairs Committee. Vote: 6-0. Ought to pass. Senator Barnes for the committee.

SENATOR BARNES: HB 1120 corrects an oversight in the statutes by allowing the towns to adopt warrant articles which will let them accept personal property donated to libraries. The towns may choose to hold a public hearing for property valued over \$500. The Public Affairs Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1155, an act relative to the terms for alternate members of zoning boards of adjustment. Public Affairs Committee. Vote: 6-0. Ought to pass. Senator Stawasz for the committee.

SENATOR STAWASZ: HB 1155 sets up a method of staggering alternate members to a zoning board as the existing statute does not define staggered terms, but only for four members. This will rotate them as well. The bill also increases the number of alternates from three to five so that there is one paired with each of the five elected members to this board. We recommend, unanimously, passage of this bill.

Adopted.

Ordered to third reading.

HB 1167, an act relative to voluntary limits on campaign expenditures. Public Affairs Committee. Vote: 4-2. Ought to pass. Senator Rubens for the committee.

SENATOR RUBENS: HB 1167 is relative to voluntary limits on campaign expenditures. The filing fees for candidates who do not agree to the voluntary campaign spending limits under the New Hampshire law. The current system is unjustly punitive toward the candidate who makes an honest effort to try to abide by the spending limits, yet the candidate who fails to agree to this limit suffers no off-set at all. HB 1167 is intended to encourage those wish to comply with the voluntary limits to do so a bit more strongly. The committee recommends ought to pass by a 4 to 2 vote.

Senator Barnes moved to have **HB 1167**, an act relative to voluntary limits on campaign expenditures, laid on the table.

Adopted.

LAID ON THE TABLE

HB 1167, an act relative to voluntary limits on campaign expenditures.

HB 1238, an act relative to the use of the official ballot for changing the manner in which planning board members are selected in towns. Public Affairs Committee. Vote: 6-0. Ought to pass. Senator Barnes for the committee.

SENATOR BARNES: HB 1238 clarifies the process of which a town may go from an appointed planning board to one that is elected. The town of Plaistow experienced problems with this issue in recent years and requested this legislation as a way to help other communities which may choose to make this change. The committee recommends HB 1238 as ought to pass.

Adopted.

Ordered to third reading.

HB 1297, an act relative to the form of the citizenship affidavit. Public Affairs Committee. Vote: 5-0. Ought to pass. Senator Stawasz for the committee.

SENATOR STAWASZ: As the committee members know, we discussed at length in committee, the constitutionality of this citizenship affidavit in relation to article 11 part I of our constitution. As we spoke this morning, it was my intent to table this and seek an advisory opinion from the Supreme Court since no one has been able to satisfy me to date; however, Senate counsel has come up with an opinion from 162 years ago, asked by the House on a very similar question. Since the Supreme Court has already ruled, let it be known that Senate counsel dug it up until the last moment, we will go along and recommend it as ought to pass.

Adopted.

Ordered to third reading.

HB 477-FN, an act regulating motor vehicle leasing. Transportation Committee. Vote: 5-0. Ought to pass with amendment. Senator Stawasz for the committee.

5452L

Amendment to HB 477-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Motor Vehicle Leasing. Amend RSA by inserting after chapter 361-C the following new chapter:

CHAPTER 361-D

MOTOR VEHICLE LEASING

361-D:1 Definitions.

I. "Adjusted capitalized cost" means the amount which serves as the basis for determining the base lease payment, computed by subtracting from the capitalized cost any capitalized cost reduction.

II. "Capitalized cost" means the total dollar amount of all items capitalized in a lease at the time that it is consummated, which may include but is not limited to the agreed upon value of the lease vehicle, taxes, registration, license acquisition, administration, assignment and other fees, insurance, accessories, installation, and delivery. It also may include, with respect to a vehicle or other property traded in connection with a lease, the unpaid balance of any amount financed under an outstanding vehicle loan agreement or vehicle retail installment contract or the unpaid portion of the early termination obligation under any lease or other obligation of the lessee.

III. "Capitalized cost reduction" means any payments made by cash, check, rebates or similar means that are in the nature of down payments made by the lessee and any net trade-in allowance granted by the lessor at the inception of the lease for the purpose of reducing the capitalized cost. The term capitalized cost reduction does not include any base lease payments due at the inception of the lease.

IV. "Constant yield method" means:

(a) In the case of a periodic payment lease the method of determining the lease charge portion of each base lease payment pursuant to which the lease charge for each computational period is earned in advance by multiplying the constant rate implicit in the lease times the balance subject to lease charge as it declines during the lease term. At any given time during the scheduled term of a periodic payment lease, the balance subject to lease charge shall be the difference between the adjusted capitalized cost and the sum of all depreciation amounts accrued during the preceding computational periods and the first base lease payment.

(b) In the case of a single payment lease, the method of determining the periodic earning of the lease charge portion of the single lease payment pursuant to which the lease charge for each computational period is earned in advance by multiplying the constant rate implicit in the lease times the balance subject to lease charge as it increases during the lease term. At any given time during the term of a single payment lease, the balance subject to lease charge shall be determined by subtracting from the residual value the total lease charge scheduled to be earned over the lease term and adding to the difference all lease charges accrued during the preceding computational periods.

(c) In the case of either a periodic payment lease or a single payment lease, the periodic lease charge calculations shall be based on the assumption that the holder will receive the lease payment or payments on their exact due date or dates and that the lease goes to its full term.

V. "Fair market value" means the wholesale value of the motor vehicle if sold in a commercially reasonable manner in the customary market for such motor vehicle.

VI. "Gap amount" means the difference between the amount owed (or which would be owed in the absence of gap protection) by the lessee under the lease in the event of a total loss of the vehicle prior to the end of the lease term occasioned by its theft, physical damage or other occurrence as specified in the consumer lease, and the actual cash value or portion of the actual cash value of the vehicle, actually received by the lessor from the insurance company or from any other person. The gap amount shall not include any deductible amount applicable to any insurance policy maintained by the lessee or any past due payments owed by the lessee as of the time of the receipt by the lessor of the insurance proceeds, or any other amount due because of the lessee's default.

VII. "Lease agreement" or "lease" means any written agreement for or in contemplation of the use of a motor vehicle in this state for personal, family, or household purposes, and the purchase of goods, services or benefits incidental thereto, by a person for a term exceeding 4 months, whether or not it is agreed that the lessee bear the risk of the motor vehicle's depreciation or have the option to purchase the motor vehicle. This shall not include a lease to a government, governmental agency or instrumentality, or any agreement that requires a person to purchase a motor vehicle at the end of the agreed upon term.

VIII. "Motor vehicle" means any device propelled or drawn by any power other than muscular power, in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting heavy trucks as defined in RSA 259:41, road machinery, buses, agricultural machinery, and house and boat trailers.

IX. "Motor vehicle lessor" or "lessor" means a person who holds legal or equitable title to a motor vehicle leased to a lessee under a written lease agreement, or who holds the lessor's rights under such an agreement.

X. "Open end lease" means a lease agreement in which the lessee's liability at the end of the lease term is based, in part on the difference between the residual value of the motor vehicle and its realized value.

XI. "Realized value" means the greater of:

(a) The price received by the lessor for disposition of the vehicle, after subtracting all actual and reasonable expenses of sale.

(b) In the event of the total loss or destruction of the vehicle, the amount described in RSA 361-D:17, II.

(c) The highest bona fide offer received by the holder for disposition of the vehicle.

(d) If the lessee obtains an appraisal of the fair market value as provided in RSA 361-D:17, the realized value shall be the vehicle's fair market value, or if the lessor and the lessee agree upon the realized value, such agreed-upon amount shall be the realized value.

(e) The vehicle's realized value may be determined in the customary wholesale market at the time of disposition of the vehicle.

XII. "Residual value" means the estimated value of the vehicle at the end of the scheduled lease term, used by the lessor in determining the base lease payment, as established by the lessor at the time the lessor and lessee enter into a lease.

XIII. "Solicitation" means any commercial message in any medium or in any location that directly or indirectly promotes a lease transaction, but shall not include direct negotiations between a lessor and lessee or potential lessee.

361-D:2 Information to Be Included With Solicitation.

I. Any solicitation to enter into a lease agreement which contains references to the amount of any payment, the number of payments, a statement of any required down payment or that no payment is required, shall also include a clear and conspicuous statement of all of the following:

(a) A statement that the transaction advertised is a lease.

(b) If the lease is an open end lease, the value placed on the motor vehicle at the inception of the lease and the maximum for which the lessee could be held liable at the end of the lease period, or the method for calculating the lessee's liability.

(c) The amount, if any, required by the lessor as a security deposit, advance periodic payment, or other prepayment.

(d) The term of the lease expressed in months, the amounts and due dates or periods of scheduled payments, and the total amount of periodic payments.

(e) A statement of whether or not the lessee has the option to purchase the leased motor vehicle and at what price and time. The method of determining the price may be substituted for disclosure of the price.

II. No solicitation may state that a specific lease of any motor vehicle at specific amounts or terms is available unless the lessor usually and customarily leases or will lease that motor vehicle at those amounts or terms.

III. Failure to comply with the provisions of this section shall not affect the validity of the leasing agreement. There shall be no liability on the part of any owner or personnel of any advertising medium for any violation of this section.

IV. A lessor shall be deemed to have complied with the requirements of this section if the solicitation includes a clear and conspicuous disclosure of a toll-free telephone number that consumers may use to obtain a free copy of the information required to be disclosed by this section.

361-D:3 Lease Agreement; Form and Contents.

I. Every lease agreement shall be in writing and, if printed, shall:

(a) Be in type no smaller than 8-point.

(b) Be clearly marked, at the top of the lease agreement in at least 10-point, bold capitalized type, the words "Motor Vehicle Lease Agreement".

II.(a) The agreement shall be signed by the lessor or authorized representative and by the lessee or authorized representative.

(b) An exact copy shall be furnished the lessee by the lessor at the time the lessor and the lessee have signed the agreement.

(c) No motor vehicle shall be delivered under this chapter until the lessor delivers to the lessee a fully executed copy of the agreement.

(d) The lessor shall not obtain the signature of the lessee to an agreement when it contains blank spaces to be filled in after it has been signed.

III. Every lease shall conform to the requirements of 15 U.S.C. section 1604 as amended and 12 C.F.R. part 13 as amended and shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

(a) A brief description of the motor vehicle, including the identification or license number, if known, or both the identification and license number, if both are known.

(b) If the lease is an open end lease, the value placed on the motor vehicle at the inception of the lease.

(c) The amount of any payment made by the lessee at the inception of the lease, other than a security deposit or advance periodic payment, and the amount of any trade-in allowance, and brief description of any property accepted by the lessor in lieu of cash.

(d) The amount of any advance periodic payment or payments required at the inception of the lease.

(e) The number, amount, and the due dates or period of payments under the lease agreement, and the total amount of such periodic payments.

(f) The residual value of the motor vehicle.

(g) The amount or the method of determining the amount of any liability to be imposed on the lessee at the expiration of the lease term.

(h) The amount of any security deposit received by the lessor as security for the performance of the lessee's obligations under the lease agreement.

(i) The estimated amount paid or payable by the lessee during the lease term for official fees, registration, certificate of title, license fees or taxes.

(j) A brief description of insurance provided or paid for by the lessor, including the type and amount of coverage and costs, or, if not provided or paid for by the lessor, the type and amount of coverage required of the lessee.

(k) The description of, amount of, or method of determining other charges payable by the lessee not included in the periodic payments or a single payment in the case of a single payment lease.

(l) A statement identifying all express warranties and guarantees made by the manufacturer or lessor with respect to the leased motor vehicle, except when the standard manufacturer's warranty applies, then the warranty may be identified by a reference to the standard manufacturer's warranty, and identifying the party responsible for maintaining or servicing the leased property together with a description of the responsibility.

(m) Any mileage limitation which will be utilized in determining, a charge for excessive use or the residual value of the motor vehicle, or both.

(n) A statement whether or not the lease agreement contains an express option to purchase the vehicle at the end of or during the lease term and at what price or the method of determining the price.

(o) A statement of the conditions under which the lessee or lessor may terminate the lease prior to the end of the term and the amount or method of determining any penalty or other charge for delinquency, default, or early termination.

(p) If the lease is an open end lease, a statement that the lessee shall be liable for the difference between the residual value of the motor vehicle and its realized value at the end of the term.

(q) The capitalized cost, identified as "capitalized cost", with a descriptive explanation such as "the agreed upon amount determined at the beginning of the lease for all items and services included in this lease" and a statement informing lessees that they may request an itemization of the components of the capitalized cost, with the amount of each such component separately itemized from the lessor or lessor's agent prior to executing the lease.

(r) Any capitalized cost reduction, using the term "capitalized cost reduction".

(s) The adjusted capitalized cost, using the term "adjusted capitalized cost" and a descriptive explanation, as applicable, such as "the

agreed upon amount which serves as the basis for determining the base lease payment. If you are not in default, this amount plus any applicable early termination charges determines your maximum early termination obligation”.

IV. Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a lease agreement under this chapter may be set forth in the manner required or permitted under federal law or regulation, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such agreement of additional information required or permitted under federal law, as in effect at the time such disclosure is made.

V. Any portion of the information required to be disclosed under this section may be given in the form of a reasonable estimate where the lessor is not in a position to know exact information.

361-D:4 Lease Agreement; Warnings. Every lease agreement shall contain, in at least 8-point bold type, above the acknowledgment authorized under RSA 361-D:7 or if none exists the space provided for the lessee's signature and circumscribed by a line, the following warnings which shall be signed or initialed by the lessee:

I. Notice to the lessee:

(a) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in;

(b) You are entitled to a completely filled in copy of this agreement;

(c) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for an early termination obligation under this agreement.

s/s _____ lessee

II. Warning—Unless a charge is included in this agreement for public liability or property damage insurance, payment for such coverage is not provided by this agreement.

s/s _____ lessee

III. You have the right to return the vehicle, and receive a refund of any payments made if the credit application is not approved, unless non-approval results from an incomplete application or from incorrect information provided by you.

s/s _____ lessee

IV. New Hampshire law does not provide for a “cooling-off” or other cancellation period for vehicle leases. Therefore, you cannot later cancel this lease simply because you change your mind, decide the base payment or capitalized costs are too much, or wish you had acquired a different vehicle. You may only cancel this lease with the agreement of the lessor or for legal cause, such as fraud.

s/s _____ lessee

V. Any holder of this lease is subject to all claims and defenses which:

(a) You could assert against the lessor of the vehicle that you have leased and

(b) Are clear on the face of the lease.

s/s _____ lessee

361-D:5 Lease Agreement; Prohibited Provisions. No lease agreement shall contain any provision by which:

I. A power of attorney is given to confess judgment in this state, or an assignment of wages is given; provided that nothing contained in this paragraph shall prohibit the giving of an assignment of wages contained in a separate instrument.

II. The lessee waives any right of action against the lessor or holder of the lease agreement or other person acting on lessee's behalf for any illegal act committed in the collection of payments under the agreement or in the repossession of the motor vehicle.

III. The lessee relieves the lessor from liability for any legal remedies which the lessee may have against the lessor under the agreement or any separate instruments executed in connection with the agreement.

IV. The lessor or holder of the agreement is given the right to commence action on an agreement under the provisions of this chapter in a county other than the county in which the agreement was signed by the lessee, the county in which the lessee resides at the commencement of the action, the county in which the lessee resided at the time the agreement was entered into or in the county in which the motor vehicle leased pursuant to such agreement is permanently garaged.

361-D:6 Sample Lease Form. The lessor shall make a blank sample of its current lease form readily available for examination by prospective lessees by furnishing it upon request before the consummation of a lease and shall provide a copy of a sample lease to every prospective lessee upon the signing by the prospective lessee of any motor vehicle order form or other agreement to lease an identified motor vehicle.

361-D:7 Acknowledgment By Lessee.

I. Any acknowledgment by the lessee of delivery of a copy of a lease agreement or purchase order and any vehicle lease proposal and any credit statement which the lessor has required or requested the lessee to sign, and which the lessee has signed, during the agreement negotiations, shall be printed or written in size equal to at least 10-point bold type and, if contained in the agreement, shall appear directly above the space reserved for the lessee's signature.

II. The lessee's written acknowledgment, conforming to the requirements of this section, of delivery of a completely filled in copy of the agreement, and a copy of such other documents shall be a rebuttable presumption of delivery in any action or proceeding by or against a holder without knowledge to the contrary when the holder acquired interest in the agreement.

III. If such holder furnishes the lessee a copy of such documents, or a notice containing items listed in RSA 361-D:3, III(a)-(l) stating that the lessee shall notify such holder in writing within 30 days if the lessee was not furnished a copy of such documents, and no such notification is given, it shall be conclusively presumed in favor of such a holder that copies of such documents were furnished as required by this chapter.

361-D:8 Payment or Trade-in.

I. If a lessee has made a payment to a lessor pending the execution of a lease, has surrendered possession of a trade-in vehicle, or both, the lessee shall have the right, if the lease is not executed by the lessee and lessor, to have any trade-in vehicle returned and receive a refund of any payments made within 10 days after the lessor receives notice that the application has not been approved. If a lessee leaves a trade-in vehicle with the lessor and the lessor and lessee agree that the parties shall enter into a lease, the lessor shall not sell or transfer the trade-in vehicle until the lessee and the lessor execute a lease.

II. This section shall not apply to the sale of a vehicle by a prospective lessee to a prospective lessor under a separate contract of sale if such contract is executed before the parties have consummated a lease, is dated as of the sale date and is signed by the parties. Such contract shall provide and shall clearly and conspicuously disclose, in at least 8 point

bold face type: that the contract price establishes the vehicle's value for purposes of determining the amount the lessor will credit as a "capitalized cost reduction" or as payment of the total amount due at lease signing under any lease subsequently consummated by the parties or as the amount due to the lessee for the vehicle in the event the parties fail to consummate a lease within 30 days; that the prospective lessee agrees to leave the contract price on deposit with the prospective lessor pending the consummation of a lease for a vehicle to be ordered from the manufacturer or for a vehicle not yet in production as of the date of the contract; and that 15 days after the lessor and prospective lessee shall agree that no lease will be consummated, and, in any event, no later than 45 days after the sale date, the prospective lessee shall be entitled to payment of the agreed upon price for the vehicle unless within that time the parties have consummated a lease or have agreed to an earlier payment of the price to the prospective lessee.

316-D:9 Total Loss Notice and Waiver of Gap Amount.

I. If the lease provides that the lessee shall be responsible for the gap amount, the lease shall disclose that fact and disclose the obligations for which the lessee would remain liable in the event of a total loss of the vehicle prior to the end of the lease term occasioned by its theft, physical damage or other occurrences as specified in the lease, using the term "gap amount".

II. The lessor may waive its contractual right to hold the lessee liable for some or all of the gap amount. This waiver may be granted either without a separate charge to the lessee, or in exchange for the payment by the lessee of a separate charge. Any separate charge for such waiver must be conspicuously disclosed to the lessee.

III. If the lessor, as provided in paragraph II of this section, offers for a separately stated charge to waive its contractual right to hold the lessee liable for the gap amount, the lease shall also contain a conspicuous notice which shall state in at least 8 point bold face type that:

(a) For a separate charge disclosed in the notice the lessor shall waive its contractual right to hold the lessee liable for the gap amount.

(b) The lessee may as an alternative to purchasing a waiver, be able to purchase protection covering the gap amount from a company which has been authorized to do business in this state.

(c) Failure to provide the notice as required by this section shall invalidate any lease provision which otherwise would obligate a lessee to pay to the holder, after a total loss of the vehicle occasioned by its theft, physical damage or other occurrence as specified in the lease.

(d) No lease shall be conditioned upon the lessee's obtaining of vehicle lessee gap protection.

IV. The lessor's waiver of its contractual right to hold the lessee liable for the gap amount may be conditioned upon the receipt by the lessor of:

(a) All amounts due under the lease as of the date of receipt by the lessor of the insurance proceeds or equivalent amount of the value of the vehicle, or if no such date is specified, as of the date of total loss of the vehicle.

(b) An amount from the lessee equal to the amount of the lessee's deductible and any other subtractions from the actual cash value under the lessee's insurance policy.

(c) Insurance proceeds from the insurance policy required under the lease, or the equivalent amount of the value of the vehicle established by reference to an official used car guide publication as of the date of the loss.

V. The lessor's waiver of its right to hold the lessee liable for the gap amount shall not be deemed to be insurance under the laws of this state and no license shall be required of lessors who waive or offer to waive such right.

VI. In the event that no amount is received by the lessor from the lessee's insurance company or from any other party in payment of the loss, the realized value of the motor vehicle shall be the actual cash value of the motor vehicle established by reference to an official used car value guide publication as of the date of the loss.

361-D:10 Refund of Excess Fees. If a lessee of a vehicle pays to the lessor an amount for fees owed to the state, the licensing or transfer of title of the vehicle which amount is in excess of the actual fees due for such licensing or transfer, including any excess of the amount which has been paid, prior to the execution of the lease, by the lessor to the state in order to avoid penalties that would have accrued because of late payment of such fees, the lessor shall return such excess amount to the lessee, whether or not such lessee requests the return of the excess amount.

361-D:11 Lien on Other Property. No agreement in connection with a lease agreement which provides for the inclusion of title to or a lien upon any personal or real property, other than the motor vehicle which is the subject matter of the lease agreement, or accessories for such vehicle or special and auxiliary equipment used in connection with such vehicle as security for the payment of the agreement obligations, shall be enforceable. This section shall not apply to a security deposit, advance payment of rent, or other cash prepayment. This section shall not apply to contracts which are ancillary to the lease and directly applicable to the leased vehicle, such as extended warranty or service agreements or contracts of insurance.

361-D:12 Rights of Assignee of Lessor.

I. An assignee of the lessor's rights shall be subject to all equities and defenses of the lessee against the lessor that are clear on the face of the lease, notwithstanding an agreement to the contrary, but the assignee's liability may not exceed the amount of the obligation owing to the assignee at the time of the assignment.

II. The assignee shall have no liability for errors or omissions made by the lessor or lessor's agent when providing itemization of the components of capitalized cost pursuant to RSA 361-D:3, III(q).

III. The assignee shall have recourse against the lessor to the extent of any liability incurred by the assignee pursuant to this section regardless of whether the assignment was with or without recourse.

361-D:13 Unlawful Rebates, Discounts, and Commissions. It shall be unlawful for any lessor to induce or attempt to induce any person to enter into an agreement subject to this chapter by offering a rebate, discount, commission or other consideration, on the condition that the lessee or prospective lessee gives information or assistance for the purpose of enabling a lessor to either lease or sell a motor vehicle to another.

361-D:14 Notice of Lessee's Default and Right to Cure.

I. After a lessee has been in default for 10 days solely by reason of the lessee's failure to make a timely lease payment and any applicable late charges, the holder may declare the lessee to be in default and may send the lessee a notice of default.

II. A lessee who has been in default solely by reason of the lessee's failure to make a timely lease payment and any applicable late charges and who has not previously been afforded the right to cure a default shall be entitled to cure the default.

III. If the lessee is entitled to cure the default the notice shall contain a conspicuous statement that the lessee is entitled to cure the default, setting forth the dollar amount necessary to cure the default, the date by which payment must be made and the name, address and telephone number of the holder from which information may be obtained regarding such cure.

IV. This section shall not apply to any default other than the lessee's failure to make a timely lease payment and any applicable late charges.

361-D:15 Open End Leases; Lessee to Bear Risk of Vehicle's Depreciation.

I. For open end leases, the residual value shall be a reasonable approximation of the anticipated fair market value of the motor vehicle at the end of the scheduled term.

II. There shall be a rebuttable presumption that the residual value is unreasonable to the extent that the residual value exceeds the realized value at lease end by more than 3 times the average payment allocable to a monthly period under the lease. This presumption shall not apply when the excess residual value over realized value is due to physical damage to the motor vehicle beyond reasonable wear and use, or to excessive use, and the lease may set standards for such wear and use if such standards are not unreasonable.

361-D:16 Method for Establishing Realized Value.

I.(a) If a lease is terminated early and the lessee does not exercise any purchase option and the lessee's liability is based on the difference between the lease balance and the realized value, or if the lessee's liability at the scheduled end of the lease term is based upon the vehicle's residual value and the lessee does not exercise any purchase option, the holder shall act in a commercially reasonable manner when disposing of the vehicle or obtaining cash bids for the purpose of establishing the realized value of the vehicle.

(b) Except in the event of a total loss, within 5 business days of lease termination, a lessee who is not in default and whose lease is terminated early without the exercise of a purchase option or whose liability at the scheduled end of the lease term is based upon the residual value of the vehicle may obtain, at the lessee's expense, a professional appraisal of the wholesale value which could be realized at sale of the vehicle, by an appraiser mutually acceptable to the lessee and the holder, who is not the agent or employee of either the lessor, the dealer or the lessee.

(c) The appraisal shall be final and binding upon the parties and shall be used as the realized value in determining the lessee's liability at early termination or at the scheduled end of the lease term.

(d) Nothing in this section shall be deemed to prohibit the lessee and the lessor from agreeing upon the vehicle's realized value, in which case the value agreed upon shall be final and binding upon the parties and shall be used as the realized value in determining the lessee's liability at early termination or at the scheduled end of the lease term.

II. In the event of a total loss of the vehicle prior to the end of the lease term occasioned by its theft, physical damage or other occurrence as specified in the lease, the realized value shall be deemed to be the sum of the amount received by the holder from the lessee's insurance company or from any other party in payment of the loss, and the amount of the lessee's deductible under the lessee's insurance policy received by the holder. In the event that no amount is received, the realized value of the motor vehicle shall be zero.

361-D:17 Restriction on Liability for Early Termination.

I. The lessee shall have the right to terminate the lease at any time after the lessee has made 12 full periodic lease payments for which lease charges have been accrued by the holder, or, in the case of a single payment lease, at the expiration of 12 months from the consummation of the lease. Nothing in this section shall be deemed to prohibit the holder from permitting the lessee to terminate the lease before the expiration of 12 months.

II. If a lease is terminated early and there is not a purchase option or the lessee does not exercise any purchase option, the lessee's early termination obligation may not exceed an amount equal to the sum of:

(a) Any unpaid lease payments that accrued through the date of early termination.

(b) Any other unpaid amounts, other than excess mileage charges, arising under the terms of the lease.

(c) Any official fees and taxes imposed in connection with lease termination.

(d) A disposition fee in an amount set forth in the consumer lease.

(e) The reasonable costs of retaking, storing, preparing for sale and selling the vehicle, including reasonable attorneys' fees and collection and court costs incurred by the lessor in recovering or securing possession of the vehicle.

(f) The amount, if any, at the time which early termination occurs, by which the balance subject to lease charge plus the lease charge earned in advance for the computational period as defined in the lease, calculated in accordance with the constant yield method or any other generally accepted lease accounting method exceeds the realized value of the vehicle.

(g) Any other early termination charge expressly disclosed in the consumer lease.

III. As an alternative to the constant yield and other generally accepted lease accounting methods of determining the depreciation amounts accrued through the date of early termination of a pre-computed lease transaction, those amounts may be determined under paragraph II(f) by using a lease provision under which the lease charge is calculated on the adjusted capitalized cost for the time outstanding according to a generally accepted actuarial method.

IV. This section shall not limit or restrict the manner of calculating the lessee's early termination obligation, whether by way of unamortized capitalized cost, discounted present value of remaining lease payments, multiples of monthly payments or otherwise, provided that the amount or method of calculating the lessee's early termination obligation shall always be conspicuously disclosed in the lease.

V. Any refundable security deposit or advance lease payment held by the holder may be retained by the holder and shall be credited against the lessee's early termination obligation to the extent it has not been applied against other obligations. The amount of such security deposit or advance lease payment in excess of the amount of the lessee's early termination obligation shall be returned to the lessee. The holder is not obligated to pay interest to the lessee on the security deposit.

316-D:18 Restriction on the Reporting of Early Terminations. The holder of a lease shall not report the voluntary early termination of a lease to a consumer reporting agency as a default unless the lessee fails to satisfy the lessee's early termination obligations under the lease.

361-D:19 Assessment of Excess Wear and Damage to the Vehicle.

I. The lease shall contain a clause complying with the Consumer Leasing Act, 15 U.S.C. section 1677 et seq., which describes the standards for determining excess wear and damage to the vehicle for which the lessee will be liable. Upon the lessee's exercise of a purchase option, the holder may not charge, receive or collect a charge for excess wear and damage to the vehicle. The holder may not prohibit the lessee from being present at an inspection for excess wear and damage.

II. No later than 45 days after the return of the vehicle, the holder shall present an itemized bill to the lessee by hand delivery at any location or by first class mail or recognized courier service to the address on the holder's records. The itemized bill shall consist of a listing of the items of excess wear and damage and the amounts to be paid by the lease. An itemized bill may be comprised of separate documents delivered or mailed separately. An itemized bill may also include identified charges for excess mileage and other amounts due under the lease. Mere acknowledgment by the lessee or receipt of an itemized bill shall not operate as an admission of the existence, nature, obligation to pay, or amount of any of the items therein. The holder shall not be required to prepare an itemized bill in response to wear and damage charges identified in lessee's counter inspection report.

III. Except as provided in this chapter, for inspections at or after the return of the vehicle, the holder shall:

(a) Provide to the lessee an itemized bill.

(b) Provide to the lessee the following statement: "You are being asked to pay this amount for excess wear and damage. If you do not agree with this amount and to preserve valuable rights, you must notify us within 7 days of receipt of this bill of your disagreement and obtain and deliver to us, within 30 days after hand delivery or mailing of this bill, an itemized inspection report and estimate of the cost of repairing such excess wear and damage from an appraiser agreed to by us and, payment of any charges due under the inspection you obtained. If you properly obtain and deliver such appraisal and tender any amounts due, such appraisal shall be binding on the holder. If you fail to do so, the holder's inspection shall be conclusive."

(c) In order for the lessee to obtain a counter-inspection, the holder shall allow the lessee access to the vehicle at a reasonable time and place designated by the holder during the 30 day time period as provided in subparagraph (b). The holder shall not be required, however, to deliver the vehicle to, or produce the vehicle at, a destination designated by the lessee for such purpose.

IV. If the lessee is required, or is given the option, to have the vehicle inspected by the holder prior to scheduled termination, the holder shall provide to the lessee notice of such inspection at least 15 days prior to the last date available for such inspection, which shall not be earlier than 15 days prior to scheduled termination, and notice that unless the lessee obtains a counter-inspector, the holder's inspection at lease end shall be conclusive. The pre-termination inspection shall be reasonable as to time and place. In addition to the statement required in paragraph III(b), an itemized bill shall include the following statement: "If this inspection report was prepared by the holder prior to the scheduled termination, you may avoid excess wear and damage charges by having such items satisfactorily repaired prior to the return of the vehicle. The holder may inspect the vehicle at or after its return and may seek additional charges only by written notice and only for wear and damage incurred after the

date of the holder's vehicle inspection. In addition, any charges for wear and damage under this inspection or your own inspection shall be due when your lease terminates."

V.(a) A lessee counter-inspection as provided in this section or, if no such counter-inspection is obtained, a pre-termination itemized bill prepared by the holder as required by this section shall be conclusive upon the holder and not subject to increase at the termination of the lease, except to the extent that such wear and damage was obscured or concealed or is reasonably believed by the holder to have occurred after the initial pre-termination inspection.

(b) With respect to such additional wear and damage charges, the holder may give the lessee another itemized bill described in paragraphs II and III.

VI. If the lessee does not present the vehicle for an authorized or required pre-termination inspection, the holder shall give the lessee the itemized bill as described in paragraph II of this section.

VII.(a) The lessee may obtain at the lessee's expense within the periods provided, a counter-inspection.

(b) To be considered a "counter-inspection", the inspection shall:

(1) Be conducted by an inspector reasonably agreed to by the holder.

(2) Be in writing in a form provided by or acceptable to the holder listing the items of excess wear and damage, if any, and the associated estimated cost of repairs according to standards set forth in the lease.

(3) Be delivered to the holder within the applicable time frame.

(4) If conducted after the vehicle is returned to the lessor, be accompanied by payment of the amount of such excess wear and damage listed on the counter-inspection.

VIII. Absent mathematical or other manifest error, the holder shall accept such counter-inspection as determinative of the lessee's excess wear and damage obligations under the lease with respect to the itemized bill for which the counter-inspection is presented and payment is made.

IX. If the lessee does not obtain a counter-inspection or a pre-termination inspection, then with respect to such inspection the lessee shall not be in default, notwithstanding any provision in the lessee's lease agreement to the contrary. If the lessee does not obtain a counter-inspection or, if offered, a pre-termination inspection, the itemized bill described in paragraph II of this section shall be conclusive.

X. The holder shall substantially comply with the provisions of this section. If the holder wishes to charge, receive or collect a charge for excess wear and damage, the exclusive penalty for failure to substantially comply with the provisions of this section shall be a waiver of the right to collect all contested excess wear and damage charges from the lessee. The holder shall not be required to send any notice if the holder does not wish to collect an excess wear and damage charge. Nothing in this chapter shall limit the lessee's obligation for any charge for excess mileage or prohibit any agreement between the lessee and the holder relating to wear and damage if such agreement is consistent with the rights given to the lessee. Nothing shall limit the lessee's liability to holder for odometer rollbacks or obscured or concealed structural or safety related damage discovered by the holder after the return of the vehicle or after the lessee receives an itemized bill.

361-D:20 Satisfaction of Lease. After the payment of all sums for which the lessee is obligated under a lease, and upon the lessee's written re-

quest, the holder shall mail to the lessee at the lessee's last known address a document stating that the lessee has made payment in full. This document shall not operate to release the lessee from liability for events discovered by the holder subsequent to the mailing of such document.

316-D:21 Renegotiations and Extensions.

I. All disclosure requirements set forth in this chapter shall apply to the renegotiation of a lease. A renegotiation does not constitute a transaction subject to warranty or other provisions that apply to the sale of used vehicles under the laws of this state.

II. The disclosure requirements shall not apply to any extension of a lease 6 months or less.

361-D:22 Liability of Lessor.

I. Except as otherwise provided by this section, any lessor who fails to comply with any requirement imposed under the provisions of this chapter or for which no specific relief is provided with respect to any person shall be liable to such person in an amount equal to the sum of:

(a) Any actual damages sustained by such person as a result of the failure.

(b) In the case of an individual action, 25 percent of the total amount of monthly payments under the lease except that liability under this subparagraph shall not be less than \$100 or greater than \$1,000; or in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not be more than the lesser of \$500,000 or one percent of the net worth of the lessor.

(c) The costs of the action, together with reasonable attorney fees as determined by the court.

II. In determining the amount of award in any class action, the court shall consider, among other relevant factors:

(a) The amount of any actual damages sustained.

(b) The frequency and persistence of failure of compliance by the lessor.

(c) The resources of the lessor.

(d) The number of persons adversely affected.

(e) The extent to which the lessor's failure of compliance was intentional.

III. A lessor shall not be liable under this section if within 30 days after discovery of an error, and prior to the institution of an action under this section or the receipt of written notice of the error, the lessor notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to insure that the person will not be required to pay any amount in excess of the amount that should correctly have been charged.

IV. A lessor shall not be held liable in any action brought under this section for a violation of this chapter if the lessor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance or procedures reasonably adopted to avoid any such error.

V. Except as otherwise specifically provided in this chapter, any civil action for a violation of this chapter which may be brought against the original lessor in any lease transaction may be maintained against any subsequent assignee of the original lessor where the violation from which the alleged liability arose is apparent on the face of the instrument assigned unless the assignment is involuntary.

VI. A person shall not take any action to offset any amount for which a lessor is potentially liable to such person under subparagraph I(b) of

this section against any amount owing to such lessor by such person, unless the amount of the lessor's liability to such person has been determined by judgment of a court of competent jurisdiction in an action to which such person was a party.

VII. No provision of this section imposing any liability shall apply to any act done or omitted in good faith conformity with any rule, regulation or interpretation of state or federal law, notwithstanding that after such act or omission has occurred, such rule, regulation or interpretation is amended, rescinded or determined by judicial or other authority to be invalid for any reason.

VIII. The multiple failure to disclose any information required under this chapter to be disclosed in connection with a single lease transaction shall entitle the person to a single recovery under this section, but continued failure to disclose after a recovery has been granted shall give rise to rights to additional recoveries.

IX. Actions alleging a failure to disclose or otherwise comply with the requirements of this chapter shall be brought within one year of the termination of the lease agreement.

361-D:23 Rescission of Agreement. If the lessor fails to comply with RSA 361-D:3, as an alternative to an action under RSA 361-D:22, the lessee may rescind the agreement if the failure to comply was willful, or if correction will increase the amount of the lease balance, unless the lessor waives the collection of the increased amount.

361-D:24 Costs and Attorney's Fees. In any action by a consumer against the lessor based upon the alleged breach of a lease or other written agreement made in connection with lease of such motor vehicle, the court, in its discretion, may award to the plaintiff costs and reasonable attorney's fees. If the court determines that the action was brought with no substantial justification, it may award costs and reasonable attorney's fees to the defendant.

361-D:25 Sale of Leased Vehicle; Applicable to Open-End Leases Only.

I. At the termination or expiration of an open end lease, when disposing of a vehicle or obtaining cash bids for the purpose of setting the realized value of a vehicle, the lessor shall act in a commercially reasonable manner in the customary market for such vehicle.

II. Notwithstanding any provision in an open-end lease agreement to the contrary at least 10 days' written notice of intent to sell such motor vehicle shall be given by the lessor to the lessee, unless the lessor and lessee have agreed in writing to the amount of the lessee's liability under the lease agreement after the lessee returns the motor vehicle to the lessor, or the lessee has satisfied the lease agreement obligations by payment to the lessor. The notice shall be personally served or shall be sent by certified mail, return receipt requested, directed to the address of the lessee shown on the lease, unless the lessee has notified the holder in writing of a different address. The notice shall set forth separately any charges or sums due and state that the lessee will be liable for the difference between the amount of liability imposed on the lessee at the expiration of the lease term and the net sale proceeds of the motor vehicle when it is sold. The notice shall also state that the lessee has the right to redeem the vehicle by payment in full of the amount due to the lessor at any time up to the date of sale or other disposition of the vehicle.

361-D:26 Duties of Lessor. A lessor shall not:

I. Fail to either register the leased vehicle pursuant to the lease agreement or provide the lessee with all documentation necessary to secure registration.

II. Advertise any specific vehicle in the inventory of the lessor for lease without identifying such vehicle by either its vehicle identification number or license number.

III. Refuse to lease an available vehicle to any creditworthy person at the advertised total lease amount.

IV. Notwithstanding the provisions of RSA 361-D:22, a lessor shall be held civilly liable for a violation of this section.

361-D:27 Administrative Enforcement. In addition to the private rights created by this chapter, compliance with the requirements imposed under this chapter shall be enforced by the department of justice.

361-D:28 Rulemaking. The attorney general shall adopt rules, pursuant to RSA 541-A, relative to:

I. The information required to be included with the solicitation under RSA 361-D:2.

II. The guidelines for forms necessary to comply with the provision of RSA 361-D:3.

III. Any other matter necessary for the administration of this chapter.

2 Applicability. The provisions of this act shall apply only to leases entered into after the effective date of this act.

3 Effective Date. This act shall take effect 6 months after its passage.

SENATOR STAWASZ: HB 477 establishing a uniform procedure for disclosure within motor vehicle leases as a way of protecting the consumer. The attorney general's office indicated that they receive a number of cases each year from consumers who have been misinformed or confused about the contents of a lease agreement. I urge my colleagues to try to read all of that stuff at the bottom of a leasing ad on television as it flies past in microscopic size for a very brief period of time. Some people in affect, don't understand that they have to give the car back or pay for extra mileage. Hopefully, there have been some attempts here to get this close to real people language so that it makes it clear to the public that leasing is not the same as owning an automobile. We recommend ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 345-L, an act relative to voluntary payments in lieu of taxes and establishing a committee to recommend legislative changes regarding voluntary payments in lieu of taxes. Ways and Means Committee. Majority report: Ought to pass with amendment. Vote: 4-3. Senator Barnes for the committee. Minority report: Ought to pass with amendment. Vote: 3-4. Senator Colantuono for the committee.

5460L (Majority)

Amendment to HB 345-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to voluntary payments in lieu of taxes.

Amend the bill by deleting sections 2-4 and by renumbering the original section 5 to read as 2.

AMENDED ANALYSIS

This bill permits the governing body of the municipality to negotiate voluntary payments in lieu of taxes from fully or partially tax-exempt properties.

5462L (Minority)

Amendment to HB 345-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to voluntary payments in lieu of taxes.

Amend RSA 72:23-n as inserted by section 1 of the bill by replacing it with the following:

72:23-n Voluntary Payments in Lieu of Taxes. The governing body of any municipality may enter into negotiations for a voluntary payment in lieu of taxes from otherwise fully or partially tax exempt properties, and may accept from such properties a voluntary payment in lieu of taxes. The property of religious organizations, which is tax exempt under RSA 72:23, III and private educational institutions, which is tax exempt under RSA 72:23, IV, shall be exempt from the provisions of this section.

Amend the bill by deleting sections 2-4 and by renumbering the original section 5 to read as 2.

AMENDED ANALYSIS

This bill permits the governing body of the municipality to negotiate voluntary payments in lieu of taxes from fully or partially tax-exempt properties.

Senator Colantuono moved to recommit.

Adopted.

HB 345-L is recommitted.

RECONSIDERATION

Senator Colantuono, having voted with the prevailing side, moved reconsideration of **HB 1400**, relative to liquor licensing requirements for veterans' clubs and social clubs, whereby we ordered it to third reading.

SENATOR COLANTUONO: The purpose is to correct a technical error in the bill that we passed last Thursday.

Adopted.

HB 1400, relative to liquor licensing requirements for veterans' clubs and social clubs.

Senator Colantuono offered a floor amendment.

5468L

Floor Amendment to HB 1400

Amend RSA 175:1, XV(b) as inserted by section 2 of the bill by replacing it with the following:

(b) An off-site catering service which is a business held out and advertised to the public which has a permanent non-residential business office with securable beverage and liquor storage areas. With the approval of the commission, an off-site catering service without a kitchen may subcontract for cooking services or the preparing of food. Notwithstanding RSA 178:20, V(e)(2), catering services under this paragraph shall sell liquor and beverages only with full course meals.

SENATOR COLANTUONO: The word "except" was put in by legislative services, when the intent or the correct word, should have been "notwithstanding." The issue here being that the off-site-caterers who requested

this amendment, wanted to make it clear that they can only provide catering services with full-course meals. The amendment, last thursday, incorrectly allowed them not to have to do that. This amendment clears that up.

Floor amendment adopted.

Ordered to third reading.

SENATOR FRASER (RULE #44): On behalf of my wife, Pat and my entire family, I wanted to take this opportunity to extend my heartfelt thanks for all of the messages of sympathy in the recent passing of my brother. We all deeply appreciate it. Thank you, Mr. President.

Recess.

Senator Delahunty in the Chair.

HOUSE MESSAGE

The House of Representatives is ready to meet with the honorable Senate in Joint Convention for the purpose of attending to the remarks of David Brock, Chief Justice of the New Hampshire Supreme Court.

Recess for Joint Convention.

Out of recess.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn; we adjourn until Thursday, April 4, 1996 at 10:00 a.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 281, an act relative to admission requirements for the veterans' home and changing the composition of the board of managers.

HB 471-FN, an act relative to the department of corrections, including a corrections impact statement and submission of correctional reports, abolishing the division of adult services, and changing the title of the warden of the department of corrections.

HB 477-FN, an act regulating motor vehicle leasing.

HB 1119, an act allowing an option for reconsideration of votes at village district meetings and relative to the powers of the town of Conway concerning governance of its fire precincts.

HB 1120, an act allowing towns to adopt a warrant article to accept personal property donated to libraries.

HB 1143, an act increasing the civil penalties for violations of certain labor statutes and authorizing the commissioner of labor to seek injunctions against noncomplying employers or owners.

HB 1144, an act relative to criminal threatening.

HB 1151, an act relative to penalties for persons convicted of class B misdemeanors and violations and relative to parole revocation hearings.

HB 1152, an act relative to periodic payments of judgments by civil defendants.

HB 1155, an act relative to the terms for alternate members of zoning boards of adjustment.

HB 1170, an act prohibiting a sworn law enforcement officer from holding a private detective's license.

HB 1175, an act repealing the law requiring general court members to list emergency interim successors, repealing the law establishing a joint committee on implementation of reorganization relative to the executive branch, and allowing the governor to appoint a designee on the local government advisory committee.

HB 1180, relative to the rulemaking authority of the commissioner of transportation relating to the turnpike system.

HB 1238, an act relative to the use of the official ballot for changing the manner in which planning board members are selected in towns.

HB 1297, an act relative to the form of the citizenship affidavit.

HB 1329, an act relative to the regulation of massage therapists.

HB 1375, an act relative to penalties under the workers' compensation law.

HB 1400, relative to liquor licensing requirements for veterans' clubs and social clubs.

HB 1463-L, an act giving municipalities bonding authority for economic development purposes in certain situations.

HB 1496, an act permitting an authorized agent of a veterinarian to dispense non-controlled prescription drugs.

HB 1548, an act relative to county attorneys.

HB 1601, an act extending the reporting date for the pet overpopulation committee.

Senator J. King moved that the business of the day being completed that the Senate now adjourn until Thursday, April 4, 1996 at 10:00 a.m.

Adopted.

Adjournment.

April 4, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

Boy, what a difference a day makes; twenty-four little hours. I've been thinking about all of you a lot since yesterday. I've seen several of your names in the papers and heard you mentioned on the radio or TV. Aspiration and even ambition are not bad things. Listen to what the great French writer Saint-Exupery said: "He who bears in his heart a cathedral to be built is already victorious. He who seeks to become sexton of a finished cathedral is already defeated". So fight clean and have fun.

Lord, we remember on this day how Your avenging angel of death mysteriously passed over the Hebrew slaves in Egypt, sparing them so

that they could do great work for You. When our actions and attitudes frustrate You; when our partisanship depresses You, and when our self-righteousness infuriates You, cut us a break, O Lord, and let Your anger pass over us. Then, use us to do a great work for You, whether in this chamber or in the office down in the corner.

Amen

Senator Keough led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

SENATOR BLAISDELL (Rule #44): Mr. President and members of the Senate, I think that this is about the tenth time in twenty-six years that I have done a Rule #44. I have two parts to it. First of all, as those of us watched yesterday, the so-called bombshell that our governor would not run again. I think that there has been much speculation about this. I want to speak for this Senate, for me, anyway, that the only reason that anyone would have to have, would be to look at that beautiful wife and those two beautiful children that were standing on that rostrum with him. That to me, was reason enough. I know that some of us have been here a long time and maybe if I had it to do all over again, maybe I would have probably paid a little bit more attention, maybe so. I did stand on this rostrum last year and say that it is family first and politics second. So I commend the governor for making that choice. I don't look for any other reason than that he wanted to be with his children and his wife and I commend him for that. Now I want to get into my Rule #44 that I haven't done for a long time. Yesterday, I was unimpressed by the Union Leader's attempt zinger of me yesterday. The Union Leader decided to replace Jim Finnegan, a real pro, by the way. A man who could attack his own mother and not feel bad, with pecos Richard Lessner. As you know, Richard Lessner, the editorial writer now for the Union Leader comes from Arizona. There is a lot of sun out there and I think that he stood out in it too long before he came here to New Hampshire. You have spent too much time out in the Arizona sun and this is New Hampshire, Richard, no one in the Senate is faint hearted, and I haven't mooned anyone for quite some time. As I said, I did get a little bit of control of myself after sitting next to Senator Roberge for all of these years. So I have tried to behave myself so that I wouldn't embarrass her and any other ladies in the audience. I suggest that this man who writes that trash over there, spend a little less time trying to be clever and a little more time studying the history of New Hampshire's biennial budget crisis. If he wants a lesson in it, tell him to call me, the door is always open. I will sit down with him. Thank you very much.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled Bills sent down from the Senate:

HB 1199, relative to the New Hampshire statewide trail system advisory committee.

HB 1301, relative to adoption procedures.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 500, relative to the purchase of paper products by the state.

SB 501, repealing a requirement for keeping records of sales of pistols and revolvers and repealing provisions relative to the purchase of shot-guns and rifles in contiguous states and by nonresidents.

SB 509, relative to OHRV use on private property.

SB 513, establishing a study committee on bonding or other alternatives to protect client trust funds held by attorneys.

SB 519, repealing the sunset provision of the driver attitude training program.

SB 527, establishing a committee to study methods of promoting competition among water utilities.

SB 616, relative to a spouse's name change upon divorce.

SB 657, extending the deadline of the employee assistance program study committee.

SB 664, relative to remedies against licensing authorities for failure to comply with state laws regarding licenses to carry pistols and revolvers.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bill sent down from the Senate:

SB 658, requiring the division of personnel, coordinator of training to cooperate with the university system regarding the training of state employees.

COMMITTEE REPORTS

HB 1302, an act establishing a committee to study methods of improving telecommunication services to the North Country and other rural areas. Economic Development Committee. Vote: 4-0. Ought to pass with amendment. Senator F. King for the committee.

5500L

Amendment to HB 1302

Amend the bill by replacing section 2 with the following:

2 Membership. The committee shall consist of the following members:

I. Three members of the house, 2 of whom shall represent the science, technology and energy committee, appointed by the speaker of the house.

II. Three members of the senate, appointed by the senate president.

SENATOR F. KING: This is a bill that will establish a committee to study improvements of the telecommunications in the North Country. The three Northern Senators, Senator Gordon, Senator Johnson and myself, along with 86 Representatives, had a hearing earlier in the year and one of the high priorities for the North Country is some way to bring telecommunications to our citizens without the need for very high toll charges. The committee recommends that this bill ought to pass.

Amendment adopted.

Ordered to third reading.

HB 1100, an act relative to the cutting of timber. Environment Committee. Vote: 5-0. Ought to pass. Senator F. King for the committee.

SENATOR F. KING: HB 1100 prohibits an individual from cutting more than 50 percent of the trees in an area within a 12 month period with-

out the consent of the Division of Forest and Lands. The bill simply brings the statute in Administrative Rules into compliance. The Environment Committee unanimously recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1315, an act relative to the use of certain products containing phosphates. Environment Committee. Vote: 5-0. Ought to pass with amendment. Senator Pignatelli for the committee.

5506L

Amendment to HB 1315

Amend the bill by replacing sections 2 and 3 with the following:

2 New Paragraph; Use of Certain Fertilizers; Rulemaking. Amend RSA 483-B:17 by inserting after paragraph V the following new paragraph:

VI. Criteria governing low phosphate, slow release nitrogen fertilizer.

3 Effective Date. This act shall take effect upon its passage.

SENATOR PIGNATELLI: This bill creates a 25 foot buffer along public waters within which no fertilizers can be used. This is consistent with the existing buffer applicable to pesticide use. Beyond the buffer, low phosphate slow release fertilizer use is permitted on lawns in areas with grass. It is our hope that this legislation will encourage greater compliance with the comprehensive shoreland protection act and have the effect of protecting public waters that are vulnerable to eutrophication. We urge passage. Thank you.

Amendment adopted.

Ordered to third reading.

HB 1325, an act relative to the emissions reduction trading programs and establishing a voluntary pilot program on enhanced environmental performance agreements. Environment Committee. Vote: 6-0. Ought to pass. Senator Russman for the committee.

SENATOR RUSSMAN: The first section of this bill HB 1325 encourages businesses in conjunction with the Department of Environmental Services to establish innovative environmental measures, not otherwise recognized or allowed under existing law. Essentially, this will give greater flexibility in terms of trying to meet the existing statutes. The second part authorizes the Division of Air Resources to establish trading at bank programs under emission reductions in terms of trading emission credits. We would ask that you vote ought to pass on this bill.

Adopted.

Ordered to third reading.

HB 1633-FN-L, an act relative to solid waste management. Environment Committee. Vote: 5-1. Ought to pass with amendment. Senator F. King for the committee.

5507L

Amendment to HB 1633-FN

Amend the bill by replacing sections 1-4 with the following:

1 Waste Reduction Goal; Disposal or Recyclable Materials. Amend RSA 149-M:1-a, III to read as follows:

III. The general court further declares that the goal of the state, for the period 1990-2000, is to achieve a 40 percent minimum weight reduction in the solid waste stream on a per capita basis. Weight reduction

shall be measured with respect to changes in the total waste stream generated. The goal of weight reduction shall be achieved through source reduction, recycling and reuse, and composting, or any combination of such methods, ***and without disposing of recyclable materials in a lined landfill with a leachate collection system.*** Ash resulting from waste-to-energy technologies or other incineration shall not be subject to further weight reduction. Recycling, reuse, and composting efforts existing upon the effective date of this paragraph shall be considered as counting towards the 40 percent weight reduction goal.

2 Waste Reduction Goal; Disposal of Recyclable Materials; Recodified Version. Amend RSA 149-M:2, I to read as follows:

I. The general court declares that the goal of the state, for the period 1990-2000, is to achieve a 40 percent minimum weight reduction in the solid waste stream on a per capita basis. Weight reduction shall be measured with respect to changes in the total waste stream generated. The goal of weight reduction shall be achieved through source reduction, recycling, reuse, and composting, or any combination of such methods, ***and without disposing of recyclable materials in a lined landfill with a leachate collection system.*** Ash resulting from waste-to-energy technologies or other incineration shall not be subject to further weight reduction. Recycling, reuse, and composting efforts existing as of 1990 shall be considered as counting towards the 40 percent weight reduction goal.

3 Solid Waste Facility Permit; Local Requirements Not Affected. RSA 149-M:10, IV is repealed and reenacted to read as follows:

IV. The issuance of a facility permit by the division shall not affect any obligation to obtain local approvals required under all applicable, lawful local ordinances, codes, and regulations not inconsistent with this chapter. Local land use regulation of facility location shall be presumed lawful if administered in good faith, but such presumption shall not be conclusive.

4 Solid Waste Facility Permit; Local Requirements Not Affected; Recodified Version. Amend RSA 149-M:9, VII to read as follows:

VII. [A] ***The issuance of a facility permit [issued] by the division [for a facility] shall not [eliminate the need to comply with] affect any obligation to obtain local approvals required under all applicable, lawful local ordinances, codes, and regulations [that are consistent with a district plan] not inconsistent with this chapter. Local land use regulation of facility location shall be presumed lawful if administered in good faith, but such presumption shall not be conclusive.***

SENATOR F. KING: HB 1633 takes a hard stance on solid waste facilities relative to obligations and goals established for the year 2000. The goal for the state, is a 40 percent reduction in solid waste by the end of the century. The bill will maintain local control over solid waste facilities to the degree that they comply with state law and as long as they do not interfere with the state's ability to maintain stringent consistency throughout the state. The attorney general's office worked with the New Hampshire Municipal Association on these issues to insure that they are not unfunded mandates for the states municipalities. The Environment Committee recommends HB 1633 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1210, an act amending the workers' compensation law to provide an exemption from coverage requirements for nonresident employees. Insurance Committee. Vote: 5-0. Ought to pass with amendment. Senator Shaheen for the committee.

5451L

Amendment to HB 1210

Amend the bill by replacing section 1 with the following:

1 New Section; Nonapplication of Chapter. Amend RSA 281-A by inserting after section 5-d the following new section:

281-A:5-e Nonapplication of Chapter to Nonresident Employees; Reciprocity.

I. This chapter shall not apply to an employee who is employed in another state or that employee's employer, while the employee is temporarily in this state doing work for that employer if:

(a) The employee is not a resident of this state and was not hired in this state.

(b) The employer does not have a permanent place of business in the state.

(c) The employee's presence in this state for purposes of conducting employment activities does not exceed any of the following periods:

(1) Five consecutive days;

(2) Ten days in any 30-day period; or

(3) Thirty days in any 360-day period.

(d) The employer and employee are covered by the provisions of the workers' compensation laws or similar laws of the other state and that law applies to them while they are working in this state;

(e) The employer has furnished workers' compensation insurance coverage under the workers' compensation laws or similar laws of the other state so as to cover the employee's employment while in this state;

(f) The extraterritorial provisions of this chapter covering employees in this state temporarily working in the other state are recognized in the other state; and

(g) Employers and employees covered in this state are exempt from the application of the workers' compensation laws or similar laws of the other state under legislation comparable to this section.

II. If the exemption provided in paragraph I applies, the workers' compensation laws or similar laws of the other state are the exclusive remedy against the employer in that state for any injury, whether resulting in death or not, received by an employee while working for that employer in this state.

III. A certificate from an insurance carrier or its authorized representative certifying that an employer is insured in that other state and has provided extraterritorial coverage insuring the employer's employees while working within this state is prima facie evidence that the employer carries such compensation insurance.

IV. The commissioner may enter into reciprocal agreements with workers' compensation agencies of other states adopting legislation similar to this section to ensure efficient administration of the chapter.

AMENDED ANALYSIS

This bill makes RSA 281-A inapplicable to employees who are working in this state temporarily if the employer is also out-of-state.

SENATOR SHAHEEN: Thank you. What HB 1210 does, is to allow companies to be exempt from workers' compensation coverage in certain states where their employees are only working temporarily. It requires that there be reciprocal agreements with the other states. Maine, currently, has a similar law. I think that this is particularly important because I have heard from a number of constituents who complain that they

can't work just temporarily in New Hampshire without being covered by workers' compensation, so it is a hindrance to them in being able to pursue their job opportunities. So I urge the Senate to vote ought to pass.

Amendment adopted.

Ordered to third reading.

HB 1590-FN, an act relative to the workers' compensation administration fund. Insurance Committee. Vote: 5-0. Ought to pass with amendment. Senator Blaisdell for the committee.

5442L

Amendment to HB 1590-FN

Amend RSA 281-A:59, III as inserted by section 1 of the bill by replacing it with the following:

III. Each insurance carrier and self-insurer, including the state, shall make payments to the fund of its pro rata share of one fiscal year's costs to be appropriated out of the fund. The governor is authorized to draw [his] *a* warrant for any sum payable by the state under this paragraph out of any money in the treasury not otherwise appropriated. The pro rata share shall be computed on the basis which the total workers' compensation benefits, including medical benefits, paid by each insurance carrier and self-insurer bore to the total workers' compensation benefits, including medical benefits, paid by all insurance carriers and self-insurers in the fiscal year ending in the preceding calendar year; provided, however, that no insurance carrier or self-insurer shall pay an assessment of less than \$100. The commissioner shall assess each insurance carrier and self-insurer as soon as possible after July 1 of each year. Total assessments shall not exceed [1-1/2 percent of the total compensation, including medical benefits, paid by all insurance carriers and self-insurers during the fiscal year which ended in the previous calendar year] *the amount appropriated for the budget of the department of labor*. The balance in the fund at the beginning of the new fiscal year shall proportionately reduce the assessments under this section. The commissioner shall have the authority to adopt rules, pursuant to RSA 541-A, relative to the manner in which such payments are to be made.

AMENDED ANALYSIS

This bill changes the amount of total assessments paid by insurance carriers and self-insurers to the workers' compensation administration fund.

This bill also clarifies the assessments assessed by the commissioner which are paid to the special fund for active cases.

SENATOR BLAISDELL: Mr. President and members of the Senate, this bill would raise the maximum assessment that the department collects out of the employers contributions to the workmens' compensation fund. Because there are fewer claims in New Hampshire, the cost of workmens' compensation coverage is dropping. They can thank this Senate for that, I can tell you that. This reduction lowers the amount that the department collects out of the assessments. If workmens' compensation payments continue to drop, the department will need to collect a larger percentage of the shrinking total. The committee recommends an amendment which would change the language concerning the percentage of payments assessed from "shall not exceed two percent" to "shall not exceed the amount appropriated for the Department of Labor's budget." That is to say that we have not raised any fees in the Senate. We

worked with the committee and the governor's office on that. This will change the rate of assessment accordingly instead of setting a rate and having the legislature change it every year. The bill also allows the department TAPE CHANGE. The committee recommends this bill as ought to pass as amended. Thank you.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 1403, an act relative to the charges for driving a motor vehicle or operating off highway recreational vehicles under the influence of drugs or liquor, or driving with excess alcohol concentration. Judiciary Committee. Vote: 5-0. Ought to pass. Senator Podles for the committee.

SENATOR PODLES: Under HB 1403 a person may be charged with both driving under the influence of drugs and liquor and driving with an excess alcohol concentration. Currently, you can only be charged with one or the other. Our hope is that this will increase convictions. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 1404, an act lowering the blood alcohol concentration for aggravated driving while intoxicated from 0.20 to 0.16. Judiciary Committee. Vote: 5-0. Ought to pass. Senator Pignatelli for the committee.

SENATOR PIGNATELLI: This bill which lowers the alcohol concentration for aggravated DWI from .20 to .16 is consistent with our lowering the alcohol concentration last year or the year before for driving while intoxicated from .10 to .08. The committee unanimously urges adoption of this bill. Thank you.

Adopted.

Ordered to third reading.

HB 1258, an act establishing a committee to study medication management for patients with prescriptive drugs. Public Institutions, Health and Human Services Committee. Vote: 6-0. Inexpedient to legislate. Senator Rubens for the committee.

SENATOR RUBENS: For the study committee, if this passes, I will be recommending various gubernatorial candidates to serve on the study committee over the summertime.

SENATOR BLAISDELL: It is going to be a big committee.

SENATOR RUBENS: We will have to expand the number of seats. The committee felt unanimously that legislatures do not have the expertise to suggest changes in the practice of medicine such as drug dosages and laboratory procedures. Therefore, the committee unanimously recommended inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1408, an act establishing a committee to study the law regarding AIDS. Public Institutions, Health and Human Services Committee. Vote: 6-0. Inexpedient to legislate. Senator Larsen for the committee.

SENATOR LARSEN: The committee heard HB 1408 relating to studying the law regarding AIDS. What we heard was that we all know that there is a public health issue with the problem of the spread of AIDS in the

state of New Hampshire, and we need to address that. But what we learned was that there is not a problem with the laws that we currently have regarding AIDS. So we felt that this bill was inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1499-FN, an act making the board of nursing administratively attached to the department of health and human services and removing the oversight authority of the commissioner of health and human services. Public Institutions, Health and Human Services Committee. Vote: 6-0. Ought to pass. Senator Rubens for the committee.

SENATOR RUBENS: The committee unanimously endorses the passage of this bill. The bill makes the Board of Nursing administratively attached to the Department of Health and Human Services and removes the oversight authority of the department and makes this particular board autonomous as are all of the professional boards of professional oversight. Health and Human Services supports passage of this bill.

Adopted.

Ordered to third reading.

HB 151 FN, an act establishing a special license plate program, including related fees. Transportation Committee. Vote: 5-0. Ought to pass with amendment. Senator Stawasz for the committee.

5508L

Amendment to HB 151-FN

Amend RSA 261-A:5 as inserted by section 1 of the bill by replacing it with the following:

261-A:5 Legislative Approval.

I. The department may issue special plates pursuant to RSA 261-A:3 only after each plate has been approved, in the form of legislation, by the legislature.

II. Notwithstanding the provisions of paragraph I, amateur radio operators shall be deemed to have obtained legislative approval under the provisions of this chapter.

SENATOR STAWASZ: HB 151 is the result of two years of study by the House. It streamlines the process by which an affinity group can obtain a special license plate design. The bill requires that at least 300 individuals must indicate their intent to purchase special plates and each design must be approved by the Department of Safety and final approval must be granted by the legislature. The plates will cost \$40 for the set for the initial purchase and \$25 for annual renewal. Those funds will go to the highway fund less the expense for printing. The amendment approves amateur radio operators for their affinity plate in advance. Since they had an amendment in, we felt that it would be appropriate for the commissioner of safety to proceed with that particular one and not have to wait another year. We recommend the bill as ought to pass as amended.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 1107, an act relative to the operation of OHRVs. Transportation Committee. Vote: 5-0. Ought to pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, we learned that during the course of the public hearing, that there are two conflicting laws on the books in

New Hampshire relative to OHRVs. HB 1107 strives to correct these two inconsistencies. One prohibits an individual who is under license revocation from operating an OHRV, and the other conflict is that a license is not necessary for operating an OHRV on a frozen body of water. HB 1107 removes this contradictory language by repealing the law that allows a person to operate an OHRV upon a frozen service. It also establishes a process by which an individual under the age of 18 who doesn't have a drivers license may be permitted to operate. The committee was unanimous in recommending adoption of the bill.

Adopted.

Ordered to third reading.

HB 1233, an act establishing a 55 mile per hour speed limit for OHRVs traveling on the frozen surface of Turtle Pond, also known as Turtle Town Pond in the city of Concord and establishing joint responsibility between the city of Concord and the state of New Hampshire for the enforcement of such speed limit. Transportation Committee. Vote: 5-0. Ought to pass. Senator Stawasz for the committee.

SENATOR STAWASZ: You have all heard the story of the Tortoise and the Hare? It is time to slow down on Turtle Pond. HB 1233 places a speed limit on the pond in Concord. In recent years, it has become a prime location for snowmobile races on Sunday afternoons. As a result of the high powered races and their speeds clocked at 125 miles per hour, community use of the pond for traditional uses such as ice fishing and ice skating, has dwindled considerably. Testimony suggested that the best way to handle that would be this joint approach between the Concord police and Fish and Game with a speed limit on Turtle Pond. It is designed to sunset after two years to allow this to be a pilot program to see if this is an appropriate way to control this type of problem. The Transportation Committee recommends ought to pass.

SENATOR LARSEN: I would just point out that this has been a difficult issue for the city council in Concord and I appreciate the Senate taking a look at it, because clearly, it takes that cooperation between the city and the state to regulate what has been problem here in the city. I urge your vote to pass this.

Adopted.

Ordered to third reading.

HB 1339-FN-A, an act to study the feasibility of an alternative highway for Route 3 in Franklin. Transportation Committee. Vote: 5-0. Ought to pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, the issue of an access highway into the city of Franklin has been an issue for many, many, many years as I am sure that the president knows. Representative Whittemore brought a bill to the Transportation Committee which would establish a legislative study committee consisting of two Senators and three Representatives to study the feasibility of pursuing this whole issue further. There is no fiscal impact so far as the bill is concerned. We would recommend that this study committee be established. We move that this bill be adopted by the full Senate.

Adopted.

Ordered to third reading.

HB 1458, an act relative to the commissioner's authority to make expenditures for certain railroad projects, and requiring the state to provide warning signs for public crossings over state-owned railroad lines. Transportation Committee. Vote: 4-0. Ought to pass. Senator F. King for the committee.

SENATOR F. KING: HB 1458 requires the state to provide warning signs at public crossings over state owned railroad lines. Currently, this responsibility lies with the towns. The committee feels that this function should be performed by the Department of Transportation instead. The communities will still install these signs that will then be provided by the state. Section two of the bill gives the commissioner the authority to make expenditures of not more than \$5,000 without the approval of the governor and council. This authority is presently granted to other agencies. The committee recommends HB 1458 as ought to pass.

Adopted.

Ordered to third reading.

HB 1282, an act allowing certain liquor licensees to conduct beverage, liquor, or wine tastings on licensed premises. Ways and Means Committee. Vote: 6-0. Ought to pass. Senator Danaïs for the committee.

SENATOR DANAÏS: HB 1282 simply allows beverage, liquor or wine tasting on a licensed premise during the hours authorized by the commission for the sale of the products on that premise. The Ways and Means Committee urges ought to pass.

Adopted.

Ordered to third reading.

HB 1287, an act allowing federal income tax withholding from unemployment compensation. Ways and Means Committee. Vote: 6-0. Ought to pass. Senator Danaïs for the committee.

SENATOR DANAÏS: This is a compliance issue. If this option is not allowed, the federal government will not provide administrative funds to the state. This is part of the NAFTA agreement. This provides certain savings that fund NAFTA. Basically this bill allows federal income tax withholding from unemployment compensation. This bill was requested by the Department of Employment Security. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 1443-FN-A, an act relative to the applicability of the meals and rooms tax. Ways and Means Committee. Vote: 7-0. Ought to pass. Senator Barnes for the committee.

SENATOR BARNES: HB 1443 was put in by the request of DRA. It is just a matter of putting the rules in place. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 1614-FN, an act relative to the road toll refund. Ways and Means Committee. Vote: 6-0. Ought to pass. Senator Currier for the committee.

SENATOR CARRIER: This bill puts into statute a practice that is now done by the Department of Transportation in terms of allocating the

unfunded gas tax money, 50 percent back to the Marine Patrol and 50 percent to the Fish and Game Committee. Over the years, and you will remember from the last budget cycle, the amount of money that actually went to Marine Patrol was a lot less than the amount of money that was actually refunded in terms of the road toll money that was allocated for that. We only appropriated a portion of that, the remaining of that money went into the general fund. One hundred gallons of gasoline has been the estimate that has been used. It is somewhat an arbitrary figure, but it is not as arbitrary as somebody just pulling a number out of their hat in terms of a dollar amount. The committee agreed that putting this into statute would establish the fund based on boat registrations and 100 gallon usage. We recommend ought to pass.

Adopted.

Ordered to third reading.

ANNOUNCEMENTS

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 537, relative to state contracts for consultants.

Senator Rodeschin moved concurrence.

Adopted.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn; we adjourn until Tuesday, April 9, 1996 at 10:00 a.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 1100, an act relative to the cutting of timber.

HB 1107, an act relative to the operation of OHRVs.

HB 1210, an act amending the workers' compensation law to provide an exemption from coverage requirements for nonresident employees.

HB 1233, an act establishing a 55 mile per hour speed limit for OHRVs traveling on the frozen surface of Turtle Pond, also known as Turtle Town Pond in the city of Concord and establishing joint responsibility between the city of Concord and the state of New Hampshire for the enforcement of such speed limit.

HB 1282, an act allowing certain liquor licensees to conduct beverage, liquor, or wine tastings on licensed premises.

HB 1287, an act allowing federal income tax withholding from unemployment compensation.

HB 1302, an act establishing a committee to study methods of improving telecommunication services to the North Country and other rural areas.

HB 1315, an act relative to the use of certain products containing phosphates.

HB 1325, an act relative to the emissions reduction trading programs and establishing a voluntary pilot program on enhanced environmental performance agreements.

HB 1339-FN-A, an act to study the feasibility of an alternative highway for Route 3 in Franklin.

HB 1403, an act relative to the charges for driving a motor vehicle or operating off highway recreational vehicles under the influence of drugs or liquor, or driving with excess alcohol concentration.

HB 1404, an act lowering the blood alcohol concentration for aggravated driving while intoxicated from 0.20 to 0.16.

HB 1443-FN-A, an act relative to the applicability of the meals and rooms tax.

HB 1458, an act relative to the commissioner's authority to make expenditures for certain railroad projects, and requiring the state to provide warning signs for public crossings over state-owned railroad lines.

HB 1499-FN, an act making the board of nursing administratively attached to the department of health and human services and removing the oversight authority of the commissioner of health and human services.

HB 1614-FN, an act relative to the road toll refund.

HB 1633-FN-L, an act relative to solid waste management.

Senator J. King moved that the business of the day being completed that the Senate now adjourn until Tuesday, April 9, 1996 at 10:00 a.m.

Adopted.

Adjournment.

April 9, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

One hundred and thirty-one years ago today the Civil War ended with General Lee's surrender to General Grant at the Appomattox Courthouse. That sad and bloody conflict was about two very different ways and views how government and society should function. The most tragic aspect of that fight was that each side assumed they understood the other's values and motivations, but in fact fundamentally misunderstood them. The results were a war that really has not ended yet, despite Appomattox. Be sure you actually understand your opponents' convictions, not just your own assumptions, before you draw your weapons.

Give us today ears that hear so well, O Lord, that the sounds of Your reality are so loud as to make us deaf to the cacophony of our own prejudices, assumptions and faulty opinions. And may our dealings with one another be always civil but never war.

Amen

Senator Colantuono led the Pledge of Allegiance.

INTRODUCTION OF GUESTS
NOTICE OF RECONSIDERATION

Senator Pignatelli served notice of reconsideration on **HB 1633-FN-L**, an act relative to solid waste management.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1539-FN-L, relative to fees for group dog licenses
and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Mary Ellen Pitman
 David Babson
 Derek Owen
 Charles Bridgewater

**SENATE ACCEDES TO HOUSE REQUEST FOR A
COMMITTEE OF CONFERENCE**

HB 1539-FN-L, relative to fees for group dog licenses

Senator Rubens moved to accede to a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Rubens, Stawasz, Cohen.

COMMITTEE REPORTS

HB 1586-FN, an act relative to minimum bonding requirements for postsecondary institutions, and the state share of default costs on certain federal student loans, and nursing service required for cancellation of nursing scholarship loan obligations. Education Committee. Vote: 6-0. Ought to pass. Senator Larsen for the committee.

SENATOR LARSEN: HB 1586 is on postsecondary education commission to adopt rules which would require postsecondary institutions that participate in federal loan programs to pay the state back for their share of any loan default cost fees. We heard in committee, that as a result of the desire of Congress to generate money from any source possible to balance the budget, the Omnibus Budget Reconciliation Act of 1993 said that if any educational institutions in New Hampshire have a student default rate of 20 percent that the state would be held liable; however, in New Hampshire, the state does not participate in the issuance of student loans, it is the postsecondary institution which makes the loan judgment; therefore, the postsecondary education commission asked for the authority to pass that liability, as is permitted under federal law, onto the postsecondary institutions which issue the loans in hopes of making them responsible for loan collection and not the state. This bill also allows pro rating of part-time nursing services so that they can meet the full requirements for cancellation of nursing scholarship loans. We heard that more nurses are being hired part time than full time and that this is a way of allowing student nurses to pay back their loans. Finally, the bill raises

the minimum bond requirement for commercial correspondence or trade schools from \$5,000 to \$10,000. The bond is security in case the school fails to provide services agreed to in the contract. This committee recommends the bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1634-FN, an act relative to licenses and license fees of electricians. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass. Senator Stawasz for the committee.

SENATOR STAWASZ: This bill modifies RSA 319-C by expanding the authority of the Electricians Board to include the establishment of fees for late renewal of all licenses. It allows an electrician with an expired license to renew the month following his expiration and it allows a master or journeyman electrician who is serving in the armed forces to be placed in inactive status. The committee voted ought to pass unanimously.

Adopted.

Ordered to third reading.

HB 1498-FN-L, an act requiring the commissioner of administrative services to purchase electricity through the competitive bidding process. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Colantuono for the committee.

5552L

Amendment to HB 1498-FN-LOCAL

Amend the bill by replacing section 4 with the following:

4 Application. Pursuant to RSA 21-I:11, III(b), competitive bidding for electric power supply shall not occur until it becomes possible to purchase electricity from more than one supplier in a given utility service territory. The chairman of the public utilities commission shall certify to the secretary of state the date on which it becomes possible to purchase electricity from more than one supplier in a given utility service territory in the state.

AMENDED ANALYSIS

This bill requires the commissioner of administrative services to purchase electricity through the competitive bidding process when it becomes possible to purchase electricity from more than one supplier in a given utility service territory.

SENATOR COLANTUONO: This bill requires the commissioner of administrative services to purchase electricity through the competitive bidding process. The bill is designed not to interfere with the goals of HB 1392 on electricity restructuring. There is no requirement to seek competitive pricing until such time as competition has commenced.

Amendment adopted.

Ordered to third reading.

HJR 25, an act urging the federal Energy Regulatory Commission, the United States Environmental Protection Agency, the Council on Environmental Quality, the United States Congress, and the President of the United States to implement increased competition in the electric utility industry in a manner that furthers environmental improvement and

promotes full and fair competition including equitable and appropriate environmental regulation for all electricity generators. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: This joint resolution recognizes some of the issues that New Hampshire will face when competition is introduced into the electric industry. There are power sources that will be available to New Hampshire that will generate electricity that is not as environmentally clean as the power that we consume today. This resolution urges the Federal Energy Regulatory Commission, the EPA and other federal agencies to promote full and fair competition including appropriate environmental regulations for all power producers. The committee voted ought to pass.

Adopted.

Ordered to third reading.

HB 1194, an act clarifying the definition of tenancy to exclude campgrounds and camping parks recreational vehicles used at motorsport racing facilities and exempting from certain aspects of the laws regulating campgrounds and camping parks. Fish and Game/Recreation Committee. Vote: 6-0. Ought to pass with amendment. Senator Roberge for the committee.

5543L

Amendment to HB 1194

Amend the bill by replacing sections 1-2 with the following:

1 New Subparagraph; Campgrounds and Camping Parks Excluded from Definition of Tenancy. Amend RSA 540:1-a, IV by inserting after subparagraph (d) the following new subparagraph:

(e) Campsites, on-site recreational vehicle rental units, cabins, and other rental units rented for recreational and vacation use in recreational campgrounds and camping parks, as defined in RSA 216-I:1, VII.

2 New Section; Exception for Motorsport Events. Amend RSA 216-I by inserting after section 14 the following new section:

216-I:15 Exception for Motorsport Events.

I. Except as provided in RSA 216-I:4, II, this chapter shall not apply to recreational vehicles used in conjunction with scheduled racing events held at motorsport facilities.

II. This exception shall apply to:

(a) Motorsport facilities with permanent seating capacity greater than 40,000 seats.

(b) Property that is used for the parking of vehicles at the motorsport facility, or contiguous land used for vehicle parking and under the control of the motorsport facility.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill clarifies the establishment of tenancy as it applies to campgrounds and camping parks for recreational vehicles. There have been incidents where people have set up in campgrounds and have refused to leave. Some have alleged that their presence creates a tenancy and as such requires formal eviction proceedings. This bill makes it clear that such activity does not create tenancy and formal eviction procedures are not required. The amendment has little to do with the substance of the bill but it is germane. It allows New Hampshire International Speedway to be exempt from certain aspects of the laws regulating campgrounds. They

comply with all local laws. This bill makes it easier for them to accommodate their customers during the racing events at the track. This does not change any fee for camping at the races, they do not charge any fee for camping at the races. The committee voted ought to pass as amended unanimously.

Amendment adopted.

Ordered to third reading.

HB 1571, an act relative to the guidelines for the construction and maintenance of certain recreational trails. Fish and Game/Recreation Committee. Vote: 6-0. Ought to pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill merely changes the name of the "Trail Administrators Manual" to the "Best Management Practices for Erosion Control During Trail Maintenance." This is a proper title for the publication. The committee voted ought to pass unanimously.

Adopted.

Ordered to third reading.

HB 1603-FN, an act relative to the budget for the animal population control program. Fish and Game/Recreation Committee. Vote: 6-0. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: This bill requires that the budget for the animal population control program be adjusted to reflect the fee charged under RSA 466. When the fees were increased for dog licenses, two dollars of every license was designated to go to the animal population control program. Because of the success of RSA 466, more money has become available to the program than was budgeted. The budgeted amount was a projection of what the fees might be under the new law. This bill will allow the money that is intended for the program to be made available to the program. The committee voted ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 1604-FN, an act relative to licensing of dogs. Fish and Game/Recreation Committee. Vote: 6-0. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: I don't know, Senator Roberge usually takes the dog issues, but we gave her such a hard time last time, she has given them all to me.

SENATOR ROBERGE: You are just lucky this week.

SENATOR RODESCHIN: Wait . . . This bill makes technical changes in the dog licensing procedures. The bill changes the procedure for civil forfeiture when a license is expired and generally makes the procedures fair for citizens. The committee voted ought to pass.

Adopted.

Ordered to third reading.

HB 1609, an act relative to police dogs. Fish and Game/Recreation Committee. Vote: 6-0. Ought to pass with amendment. Senator Rodeschin for the committee.

5526L

Amendment to HB 1609

Amend the title of the bill by replacing it with the following:

AN ACT

relative to police dogs and search and rescue dogs.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 6:

3 Search and Rescue Dogs Added. Amend the chapter heading of RSA 167-D to read as follows:

**HEARING EAR DOGS, GUIDE DOGS [AND], SERVICE DOGS,
AND SEARCH AND RESCUE DOGS**

4 New Paragraph; Definition Added. Amend RSA 167-D:1 by inserting after paragraph X the following new paragraphs:

X. "Search and rescue dog" means any dog which has been trained to perform typical search and rescue operations and is certified by a competent authority or holds a title from a competent authority or organization recognized by the office of the governor, department of safety, department of fish and game, or the Federal Emergency Management Agency or its successor agency.

5 New Section; Search and Rescue Dogs. Amend RSA 167-D by inserting after section 3 the following new section:

167-D:3-a Application of RSA 167-D:3 to Search and Rescue Dogs. The provisions of RSA 167-D:3 shall also apply to dogs involved in search and rescue missions at the request of a government agency when such dogs are in the course of, or traveling to or from the scene of, their official duties.

AMENDED ANALYSIS

This bill establishes guidelines to allow a police dog to remain in service after the dog has bitten a person.

This bill also allows search and rescue dogs to enter public facilities, housing accommodations, or places of public accommodation when they are in the course of, or traveling to or from the scene of, their official duties.

SENATOR RODESCHIN: This bill is designed to take a bite out of crime. It allows a police dog to remain in service after the dog has bitten a person. Although this activity is in the police dogs' job description, it conflicted with animal control statutes that require a dog to be quarantined for ten days if there was a biting incident. This will allow the dogs to remain in service and not leave towns short pawed if their dog is involved in such an incident. The committee voted ought to pass.

Amendment adopted.

Ordered to third reading.

HB 1211, an act prohibiting the denial of insurance coverage based on the perception or possibility that the prospective insured is a victim of domestic abuse or violence. Insurance Committee. Vote: 5-0. Ought to pass. Senator Shaheen for the committee.

SENATOR SHAHEEN: The bill does exactly what its title says. It prohibits insurers from denying coverage based on the perception that someone has a history of domestic violence. The committee voted unanimously ought to pass.

Adopted.

Ordered to third reading.

HB 1631, relative to felonious use of body armor. Judiciary Committee. Vote: 5-0. Ought to pass with amendment. Senator Wheeler for the committee.

5515L

Amendment to HB 1631

Amend the bill by replacing section 1 with the following:

1 Felonious Use of Body Armor. RSA 650-B:2, I is repealed and reenacted to read as follows:

I. A person is guilty of a class B felony if the person commits or attempts to commit capital, first degree or second degree murder, manslaughter, aggravated felonious sexual assault, first degree assault, robbery or burglary while using or wearing body armor.

AMENDED ANALYSIS

This bill modifies RSA 650-B:2, I, relative to felonious use of body armor, removing misdemeanor offenders from its scope and specifying the felonies to which it shall apply.

SENATOR WHEELER: It came to our attention that the felonious use of body armor probably is because we didn't pass the bill in the right form when we originally did that a couple of years ago. You could write a bad check and then additionally be guilty of a felony if you were wearing body armor when you did that, so the Senate Judiciary Committee came up with a list of crimes that we thought were appropriate for the additional penalties and that is what this bill does.

Amendment adopted.

Ordered to third reading.

HB 1131-FN-A, an act relative to the Women's War Memorial in Arlington, Virginia, and making an appropriation therefor. Public Affairs Committee. Vote: 4-0. Ought to pass. Senator Barnes for the committee.

SENATOR BARNES: HB 1131 recognizes the 7,600 women from New Hampshire who have served in the armed forces by appropriating \$1 for each woman to the Women's War Memorial which will be constructed at the entrance to the Arlington National Cemetery. The memorial will recognize the service of nearly two million women, nationwide, who have served in the military since the Revolutionary War. New Hampshire has a distinction of being only the tenth state to donate money to this project so far, if you people vote yea. The Public Affairs Committee proudly recommends HB 1131 as ought to pass.

Adopted.

Ordered to third reading.

HJR 26, an act urging the United States Postal Service to issue a stamp to honor Maxfield Parrish. Public Affairs Committee. Vote: 4-0. Ought to pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, HJR 26 urges the United States Postal Service to issue a stamp commemorating the life and work of Maxfield Parrish, one of the foremost American artists in the early twentieth century. His works include illustrations for Harpers Weekly and paintings of New Hampshire which enhance the State House Annex and the Department of Resources and Economic Development. The committee voted unanimously as ought to pass.

Adopted.

Ordered to third reading.

HB 1169, an act authorizing the department of health and human services to impose administrative fines on certain nursing homes. Public Institutions, Health and Human Services Committee. Vote: 5-0. Ought to pass with amendment. Senator J. King for the committee.

5547L

Amendment to HB 1169

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Administrative Fines. Amend RSA 167 by inserting after 167:92 the following new subdivision:

Administrative Fines

167:93 Administrative Fines. The commissioner of health and human services, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine pursuant to 42 C.F.R. 488-438 for each offense upon any person who violates any provision of RSA 167 or any rule adopted pursuant to such chapter relative to nursing home enforcement. Rehearings and appeals under this section shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The commissioner shall adopt rules, under RSA 541-A, relative to the enforcement of this section.

SENATOR J. KING: HB 1169 authorizes the Department of Health and Human Services to impose administrative fines on nursing homes which violate the department's rules regulating nursing homes. As a request of the Department of Health and Human Services, this bill will bring state law in line with federal law and in compliance with federal law. These fines are significant and help to ensure compliance. HB 1169 unifies the New Hampshire nursing homes under the same rules governing nursing homes in other states and will ensure that federal funding is not jeopardized. These fines will be detailed in administrative rules. The Public Institutions Committee urges ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

LEGISLATIVE ETHICS COMMITTEE

Proposed Amendments to Ethics Guidelines

At its meeting on March 27, 1996, the Committee unanimously voted to amend the Ethics Guidelines, subject to approval by the General Court in accordance with RSA 14-B:3, II, to limit the required disclosure of interests to members and their spouses, rather than immediate families. The amendment is printed below.

Russell F. Hilliard, Chairperson
Rep. Amanda A. Merrill, Vice-Chairperson
Sen. Richard L. Russman
Sen. John A. King
Rep. John J. McCarthy
Shawn N. Jasper

II DEFINITIONS

3) "Financial Interest" is a reasonably foreseeable *direct* material financial effect, distinguished from its effect on the public generally, on the legislator or [the legislator's immediate family] *his or her spouse*.

SENATOR RUSSMAN: The Ethics Committee is pleased to present to you for your consideration, a change in the Ethics Guidelines. It has been

published for three legislative days and now is the time for us to vote to adopt these legislative changes. I think that they are fairly straightforward, although I will be happy to try to answer questions if any of you have questions. The primary things are twofold; One, is to change the area of requirements for whether or not you have a conflict from immediate family to simply spouse. So it eliminates the idea that you have to keep track of perhaps what your grown children are doing and where they are and so on and so fourth, but you may not know or they may not want to tell you and obviously, it would just limit it to you and your spouse. The other opportunity, really, is to tighten it so that it only has bearing on those matters in which they are direct financial interest in. So we would urge passage of the amendment that the Ethics Committee has presented to you and there is really nothing more that I can say about it.

Senator Russman moved adoption.

Adopted.

5560d

Enrolled Bill Amendment to HB 1160

Amend paragraph IV of section 2 of the bill by replacing line 4 with the following:

committees and the postsecondary education commission no later than

Senator Currier moved adoption.

Adopted.

RECONSIDERATION

Senator Pignatelli moved that having voted with the prevailing side, moved reconsideration on **HB 1633-FN-L**, an act relative to solid waste management, whereby we ordered it to third reading.

Adopted.

HB 1633-FN-L, an act relative to solid waste management.

Senator Pignatelli moved to recommit.

Adopted.

HB 1633-FN-L, is recommitted.

ANNOUNCEMENTS

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn; we adjourn until Thursday, April 11, 1996 at 10:00 a.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 1131-FN-A, an act relative to the Women's War Memorial in Arlington, Virginia, and making an appropriation therefor.

HB 1169, an act authorizing the department of health and human services to impose administrative fines on certain nursing homes.

HB 1194, an act clarifying the definition of tenancy to exclude campgrounds and camping parks recreational vehicles used at motorsport racing facilities and exempting from certain aspects of the laws regulating campgrounds and camping parks.

HB 1211, an act prohibiting the denial of insurance coverage based on the perception or possibility that the prospective insured is a victim of domestic abuse or violence.

HB 1498-FN-L, an act requiring the commissioner of administrative services to purchase electricity through the competitive bidding process.

HB 1571, an act relative to the guidelines for the construction and maintenance of certain recreational trails.

HB 1586-FN, an act relative to minimum bonding requirements for postsecondary institutions, and the state share of default costs on certain federal student loans, and nursing service required for cancellation of nursing scholarship loan obligations.

HB 1604-FN, an act relative to licensing of dogs.

HB 1609, an act relative to police dogs.

HB 1631, relative to felonious use of body armor.

HB 1634-FN, an act relative to licenses and license fees of electricians.

HJR 25, an act urging the federal Energy Regulatory Commission, the United States Environmental Protection Agency, the Council on Environmental Quality, the United States Congress, and the President of the United States to implement increased competition in the electric utility industry in a manner that furthers environmental improvement and promotes full and fair competition including equitable and appropriate environmental regulation for all electricity generators.

HJR 26, an act urging the United States Postal Service to issue a stamp to honor Maxfield Parrish.

Senator J. King moved that the business of the day being completed that the Senate now adjourn until Thursday, April 11, 1996 at 10:00 a.m.

Adopted.

Adjournment.

April 11, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

Your capacity to make the right decisions on our behalf is in direct proportion to your ability to really understand what we, the people, are saying - and then to decide what to do about that. Real understanding requires hearing. Actual hearing requires listening. Conscientious listening requires caring. And patient caring requires time - and lots of it. Thanks for the gift of your time.

Great God of time and eternity, show each one of us how to use well Your gift of time to us, for no amount of legislating or lobbying can bring a moment of it back once we have spent it. And so, let us never squander it in hurtful words, duplicitous actions or prideful posturing, for You have given us our time to care with, not to trifle with - and You only give it once. Amen

Senator Larsen led the Pledge of Allegiance.

INTRODUCTION OF GUESTS**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

HB 1131, relative to the Women's War Memorial in Arlington, Virginia, and making an appropriation therefor.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

HB 1140, repealing the health insurance coverage survey.

HB 1227, transferring the town of Litchfield from the Nashua District Court to the Merrimack District Court.

HB 1244, relative to aeronautical carriers.

HB 1259, allowing independent professionals to be owners of professional corporations or professional limited liability companies.

HB 1274, relative to rights-of-way to certain bodies of water.

HB 1307, relative to the interstate emergency management compact.

HB 1426, allowing the acquisition of certain easements near newly-constructed limited access highways.

HB 1146, relative to school bus safety and exempting certain buses from the road toll.

HB 1197, reclassifying certain roads in the towns of Boscawen and Hampstead.

HB 1224, authorizing the state to acquire certain property adjacent to Black Mountain State Forest.

HB 1476, delaying the startup of the emissions testing program and requiring the commissioner of the department of safety to study and recommend statutory changes to reflect federal changes in the motor vehicle inspection and maintenance emissions testing program.

SB 509, relative to OHRV use on private property.

SB 616, relative to a spouse's name change upon divorce.

Senator Currier moved adoption.

Adopted.

COMMITTEE REPORTS

HB 175-FN, an act relative to cooperative school districts. Education Committee. Vote: 7-0. Ought to pass. Senator Rubens for the committee.

SENATOR RUBENS: Mr. President, this bill addresses cooperative school districts in articles of agreement. The bill clarifies how cooperative districts would perform before 7/1/63 or be treated by the Department of Education. At this time each of these districts is treated on an individual basis and the laws concerning cooperative districts will be separated in two different sections, one dealing with those created before July 1, 1963 which do not have articles of agreement, and another for those that were

created after that date which do have articles of agreement. The problem with the current law is that it refers to two articles of agreement from cooperative districts even though those created before 7/1/63 were not required to have such an agreement. The committee unanimously recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 378-FN-L, an act relative to school employee background investigations. Education Committee. Vote: 5-2. Ought to pass. Senator J. King for the committee.

Senator Lovejoy moved to recommit.

Adopted.

HB 378-FN-L is recommited.

HB 1203-L, an act excluding pupils in home education programs from average daily membership in cooperative school district apportionment formulas, and deleting the date for notification for home education. Education Committee. Vote: 6-0. Ought to pass with amendment. Senator Rubens for the committee.

5625L

Amendment to HB 1203-LOCAL

Amend the bill by replacing all after the enacting clause with the following:

1 Home Education; Notification to Commissioner by August 1 Deleted. RSA 193-A:5, I is repealed and reenacted to read as follows:

I. Any parent commencing a home education program for a child, for a child who withdraws from a public school, or for a child who moves into a school district shall notify the commissioner of education, resident district superintendent, or principal of a nonpublic school of such within 30 days. Subject to the provisions of RSA 193-A:7, I, the commissioner of education shall acknowledge in writing that the parent shall be permitted to initiate a home education program for a child enrolled in a public or nonpublic school if the program meets the minimum definitional and educational requirements as provided in RSA 193-A:4, I and paragraph II of this section.

2 Gender Neutral Language Substitution. Amend RSA 195:4, III to read as follows:

III. CHECKLISTS. At the meetings held in the preexisting districts for the purpose of accepting the articles of agreement, or any agreement of annexation, and at the organization meeting of the cooperative school district the checklists for each preexisting district shall be used. The school board of any preexisting district which does not have a checklist shall make, post and correct a list of the legal voters in the district for use at such meetings as supervisors are required to do in regard to the list of voters in their towns. Thereafter the cooperative school board shall make, post and correct a list of the legal voters of the cooperative school district acting as supervisors are required to do, except that such list shall indicate with respect to each voter the preexisting district in which [he] *the voter* resides. Any 2 members of the cooperative school board shall constitute a quorum at sessions for the correction of the checklist. Notwithstanding the foregoing provisions whenever each of the preexisting school districts is coextensive with the town in which it is located the cooperative school district may, at an annual cooperative school district

meeting, under an article in the warrant for such meeting, vote that the supervisors of each town, acting as the supervisors of the cooperative school district, shall make, post and correct in each preexisting district a checklist of the voters in each preexisting district and shall certify [to the same] ***the making, posting, and correction of the checklist*** acting as supervisors of the cooperative school district. At each annual meeting for the election of officers of the cooperative district the checklists prepared by the supervisors in each preexisting district in accordance with the provisions of this paragraph shall be used and the town supervisors from each preexisting district shall attend [said] ***such*** annual meeting. The voters of the cooperative district shall be those whose names appear on the checklists as provided by this paragraph. The supervisors shall be paid such compensation as the district may provide.

3 Gender Neutral Language Substitution. Amend RSA 195:4-a to read as follows:

195:4-a Acceptance by State Board of Education. Following the organization meeting the state board shall receive from the clerk of the cooperative school district a certified copy of the action taken including the names of the districts uniting into the new cooperative district, grades included in the program, officers elected at the meeting, plan adopted for distributing the cost of operation, property to be purchased, if any, date of establishment and any other action taken, provided, however, that if the organization meeting is adjourned, action taken at the adjourned meeting shall be likewise reported to the state board. Prior to the date of establishment the board shall review all the information received from the organizing districts and certify to clerk and [chairman] ***chairperson*** of the new cooperative school district that all the requirements have been fulfilled relative to the establishment and that after that date the new cooperative district will be recognized as in existence.

4 Gender Neutral Language Substitution; Cross-Reference Correction. Amend RSA 195:5, II to read as follows:

II. Treasurer. The treasurer of a cooperative school district shall be appointed by the cooperative school board for one or more terms not to exceed 5 years each [and], shall not be a member of the cooperative school board, and shall receive for [his] services such sum as the cooperative school board may determine. The treasurer shall, before entering upon the duties of [his] ***such*** office, give a bond to the cooperative school district with a surety company authorized to do business within the state in a form approved by the commissioner of revenue administration, and the premium shall be paid by the cooperative school district. The provisions of RSA [71] ***21-J:17***, applicable to uniform accounting by school districts, shall apply to cooperative school districts.

5 Cooperative School Districts; Certain Home Educated Pupils Excluded in Apportionment Formulas. Amend RSA 195:7 to read as follows:

195:7 Costs of Capital Outlay and Operation.

I. During the first 5 years after the formation of a cooperative school district each preexisting district shall pay its share of all capital outlay costs and operational costs in accordance with either one of the following formulas as determined by a majority vote of the cooperative district meeting:

[I.](a) All such costs shall be apportioned on the basis of the ratio that the equalized valuation of each preexisting district bears to that of the cooperative district; or

[II.](b) One-half of all such costs shall be apportioned on the basis of the ratio that the equalized valuation of each preexisting district bears to that of the cooperative district and 1/2 shall be apportioned on the average daily membership for the preceding year.

[III.](c) Some other formula offered by the cooperative school board, adopted by the cooperative school district and approved by the board.

II. Home education pupils who do not receive services from the cooperative school district, except an evaluation pursuant to RSA 193-A:6, II, shall not be included in the average daily membership relative to apportionment formulas.

6 Cross Reference Changed. Amend RSA 195:8 to read as follows:

195:8 Five-Year Period Reconsideration. After the expiration of the first 5-year period measured from the date of the first annual meeting and after the expiration of each subsequent 5-year period measured from the date of the last change [thereto] ***to the cost apportionment under RSA 195:7***, the basis for the apportionment of all such costs may be subject to review, pursuant to an article for that purpose duly inserted in the warrant for a district meeting [and]. The cooperative school district may then by majority vote elect to apportion all such costs by the adoption of [either formula I, II or III, as defined in RSA 195:7] ***one of the formulas set forth in RSA 195:7, I(a), (b), or (c).*** Such apportionment may be reviewed in the same manner at any time in order to permit annexation of a school district or a increase in the number of grades for which the district shall be responsible.

7 Gender Neutral Language Substitution. Amend RSA 195:9, I to read as follows:

I. Whenever a cooperative school district planning board is formed and it is proposed that a cooperative school district is to be established, the properties belonging to the districts that are to be used by the cooperative district shall be separately appraised by a committee to consist of 3 persons. The commissioner of education shall designate one person on the committee, and the commissioner of revenue administration shall designate 2 persons, one of whom shall be a member of or a qualified appraiser employed by the department of revenue administration. A member who is not in the employ of the state shall be paid \$25 per day plus [his] actual expenses in the performance of [his] ***such member's*** duties. A member who is in the employ of the state shall not be paid extra compensation other than [his] ***the*** state salary, but shall be reimbursed for [his] actual expenses in the performance of [his] ***such member's*** duties.

8 Gender Neutral Language Substitution. Amend RSA 195:12-a, I to read as follows:

I. A cooperative school district at an annual meeting, under a proper article in the warrant, may vote to establish a budget committee and may rescind such action in a like manner. The budget committee shall have the same number of members as the cooperative district school board plus one additional member from the school board as [hereinafter] provided in this paragraph. The terms of office and manner of election of members shall be determined in the same manner as for the cooperative school board. Whenever it is voted to establish a budget committee, the moderator in the first instance shall appoint the members [thereof] ***of the budget committee***, except for the additional member appointed from the school board, within 15 days of the vote establishing the committee. The members appointed by the moderator shall serve until the next annual meeting when the meeting shall elect their successors. No member of the

cooperative school board shall be appointed or elected to the budget committee except that the [chairman] **chairperson** of the cooperative school board shall appoint a member of the board to serve on the budget committee with all the powers and duties of any other member of the committee. After appointment or election the budget committee shall promptly organize and choose a [chairman] **chairperson**, [vice chairman] **vice-chairperson**, and secretary. The secretary shall keep records of the proceedings of the budget committee, which shall be public records open to public inspection.

9 Gender Neutral Language Substitution; Cross-Reference Correction. Amend RSA 195:16-b to read as follows:

195:16-b Power of Eminent Domain. Whenever a cooperative school district cannot acquire by purchase a good title to any real estate or interest therein needed by it for its purposes either because of the unwillingness of the owner to sell at a reasonable price [or his], **the owner's** inability to convey a good title, or for other reason, the cooperative school district may apply by petition to the superior court for the county in which such real estate or interest therein is located to acquire such real estate or interest therein in the name of such district and to have assessed the damages occasioned by the taking. Thereafter the procedure shall follow that prescribed in RSA [481:10, I, II, III and V] **498-A**.

10 Gender Neutral Language Substitution. Amend RSA 195:18, I to read as follows:

I. Any school district pursuant to an article in the warrant for any annual or special meeting may vote to create a cooperative school district planning committee consisting of 3 qualified voters of whom at least one shall be a member of the school board. The members of the committee shall be elected at the meeting at which the committee is created, unless the district determines that they shall be appointed by the moderator. The members of the committee shall serve without pay for a term ending (1) at the third annual meeting of the district following the creation of the committee, if the committee is created at an annual meeting, or (2) at the first annual meeting of the district next following the expiration of 3 years from the date of the creation of the committee, if the committee is created at a special meeting, or (3) upon the final adjournment of the organization meeting of any cooperative school district of which the district becomes a part. If the term of the committee ends at an annual meeting of the district, the district may create a successor cooperative school district planning committee pursuant to the foregoing provisions. Vacancies on the committee shall be filled by the moderator for the balance of the unexpired term. The district may appropriate money to meet the expenses of the committee at the meeting at which it is created or at any subsequent district meeting notwithstanding the provisions of RSA 32 or RSA 197:3, and such expenses may include the cost of publication and distribution of reports. Cooperative school district planning committees from any 2 or more school districts may join together to form a cooperative school district planning board which shall organize by the election of a [chairman] **chairperson** and a clerk-treasurer. The planning board may thereafter admit to membership planning committees from other school districts, but the members of a planning committee shall not be members of more than one planning board at any one time. A cooperative school district planning board shall act by a majority vote of its total membership.

11 Cooperative School Districts; Certain Home Educated Pupils Excluded in Apportionment Formulas. Amend RSA 195:18, III(e)-(g) to read as follows:

(e) The method of apportioning the operating expenses of the cooperative school district among the several preexisting districts and the time and manner of payment of such shares. ***Home education pupils who do not receive services from the cooperative school district, except an evaluation pursuant to RSA 193-A:6, II, shall not be included in the average daily membership relative to apportionment formulas.***

(f) The indebtedness of any preexisting district which the cooperative school district is to assume.

(g) The method of apportioning the capital expenses of the cooperative school district among the several preexisting districts, which need not be the same as the method for apportioning operating expenses, and the time and manner of payment of such shares. Capital expenses shall include the costs of acquiring land and buildings for school purposes, including property owned by a preexisting district; the construction, furnishing and equipping of school buildings and facilities; and the payment of the principal and interest of any indebtedness which is incurred to pay for the same or which is assumed by the cooperative school district. ***Home education pupils who do not receive services from the cooperative school district, except an evaluation pursuant to RSA 193-A:6, II, shall not be included in the average daily membership relative to apportionment formulas.***

12 Gender Neutral Language Substitution. Amend RSA 195:18, VI to read as follows:

VI. Upon the receipt of written notice of the board's approval of the articles of agreement, the school board of each preexisting district which is to be included in the cooperative school district shall cause the articles of agreement to be filed with the clerk of such preexisting district and submitted to the voters of the district as soon as may reasonably be possible at an annual meeting or at a special meeting called for the purpose, the voting to be by ballot with the use of the checklist, after reasonable opportunity for debate in open meeting. The duty to call such meeting for such purpose may be enforced by the superior court in an equity proceeding commenced by any voter or taxpayer of such school district. The article in the warrant for each district meeting and the question on the ballot to be used at the meeting shall be in substantially the following form:

"Shall the school district accept the provisions of RSA 195 (as amended) providing for the establishment of a cooperative school district, together with the school districts of _____ and _____ etc., in accordance with the provisions of the proposed articles of agreement filed with the school district clerk?"

Yes _____ No _____

If a majority of the voters present and voting in each district shall vote in the affirmative, the clerk of each preexisting district shall forthwith send to the board a certified copy of the warrant, certificate of posting, evidence of publication if required, and minutes of the meeting in [his] ***such*** district. If the board finds that a majority of the voters present and voting in each preexisting district meeting have voted in favor of the establishment of the cooperative school district, it shall issue its certificate to that effect[; and]. Such certificate shall be conclusive evidence of the lawful organization and formation of the cooperative school district as of the date of its issuance.

13 Gender Neutral Language Substitution. Amend RSA 195:18, IX to read as follows:

IX. The organization meeting of a cooperative school district shall be called to order by the [chairman] **chairperson** of the cooperative school district planning board, or by the clerk-treasurer thereof, who shall serve as temporary [chairman] **chairperson** for the first order of business which shall be the election of a moderator and of a temporary clerk, by ballot, who shall be qualified voters of the district. From and after the issuance of the certificate of formation by the board to the date of operating responsibility of the cooperative school district, such district shall have all the authority and powers of a regular school district for the purposes of incurring indebtedness, for the construction of school facilities and for such other functions as are necessary to obtain proper facilities for a complete program of education. When necessary in such interim, the school board of the cooperative school district is authorized to prepare a budget and call a special meeting of the voters of the district, which meeting shall have the same authority as an annual meeting, for the purpose of adopting the budget, making necessary appropriations, and borrowing money. Whenever the organization meeting is held on or before April 20 in any calendar year, no annual meeting need be held in such calendar year. Sums of money raised and appropriated at the organization meeting or any interim meeting prior to the first annual meeting shall be forthwith certified to the commissioner of revenue administration and the state department of education upon blanks prescribed and provided by the commissioner of revenue administration for the purpose, together with a certificate of estimated revenues, so far as known, and such other information as the commissioner of revenue administration may require. The commissioner of revenue administration shall examine such certificates and delete any appropriations which appear not made in accordance with the law, and adjust any sum which may be used as a set off against the amount appropriated when it appears to the commissioner such adjustment is in the best public interest. The commissioner of revenue administration shall certify to the state department of education the total amount of taxes to be raised for said cooperative school district and the state department of education shall determine the proportional share of said taxes to be borne by each preexisting school district and notify the commissioner of revenue administration of its determination. Upon certification by the commissioner of revenue administration the selectmen of each town shall seasonably assess the taxes as provided by law. The selectmen shall pay over to the treasurer of the cooperative district such portion of the sums so raised as may reasonably be required according to a schedule of payments needed for the year as prepared by the treasurer and approved by the cooperative school board, but no such payment shall be greater in percentage to the total sum to be raised by one local district than that of any other local district comprising such cooperative school district.

14 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

Section 1 of this bill deletes the August 1st deadline by which parents choosing to educate their children at home shall make notification, and provides that parents commencing home education for a child who withdraws from a public school or moves into a district shall notify the commissioner within 30 days.

Sections 5 and 6 of this bill provide that home educated pupils who do not receive services from cooperative school districts, except educational evaluations, shall not be included in the average daily membership relative to apportionment formulas.

The remainder of this bill amends certain RSA provisions making them gender neutral and consistent with other sections amended by the bill in accordance with RSA 17-A:6 relative to gender neutral drafting.

SENATOR RUBENS: This bill removes home schooling students from the calculations of average daily membership for cooperative school districts. The bill also changes the deadline by which parents have to notify school districts if they are going to home school their children. When the children are counted as part of the average daily membership, although they are not attending the school, the town ends up paying more because of the inflated membership. With this provision removed, those towns and cooperative school districts will only be paying their share based on the actual number of students that attend the school. The committee unanimously recommends this bill as ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 1286, an act relative to the suspension and expulsion of pupils. Education Committee. Vote: 6-0. Ought to pass with amendment. Senator Stawasz for the committee.

5626L

Amendment to HB 1286

Amend the bill by replacing all after the enacting clause with the following:

1 Suspension and Expulsion of Pupils; Procedure. Amend RSA 193:13, I-III to read as follows:

I.(a) The superintendent or chief administering officer, or a representative designated in writing *by the superintendent*, is authorized to suspend pupils from school *for a period not to exceed 10 school days* for gross misconduct or for neglect or refusal to conform to the reasonable rules of the school[, providing that where there is a suspension lasting beyond 5 school days, the parent or guardian has the right to appeal any such suspension to the local school board. Any suspension to continue beyond 20 school days must be approved by the local school board].

(b) *The school board or a representative designated in writing of the school board is authorized, following a hearing, to continue the suspension of a pupil for a period in excess of 10 school days. The school board's designee may be the superintendent or any other individual, but may not be the individual who suspended the pupil for the first 10 days under subparagraph (a). Any suspension shall be valid throughout the school districts of the state, subject to modification by the superintendent of the school district in which the pupil seeks to enroll.*

(c) *Any suspension in excess of 10 school days imposed under subparagraph (b) by any person other than the school board is appealable to the school board, provided that the superintendent received such appeal in writing within 10 days after the issuance of the decision being appealed. The school board shall hold a hearing on the appeal, but shall have discretion to hear evidence or to rely upon the record of a hearing conducted under subpara-*

graph (b). The suspension under subparagraph (b) shall be enforced while that appeal is pending, unless the school board stays the suspension while the appeal is pending.

II. Any pupil may be expelled from school by the local school board for gross misconduct, or for neglect or refusal to conform to the reasonable rules of the school, or for an act of theft, destruction, or violence as defined in RSA 193-D:1, or for possession of a pellet or BB gun or rifle, and the pupil shall not attend school until restored by the local board. Any expulsion shall be subject to review if requested prior to the start of each school year and further, any parent or guardian has the right to appeal any such expulsion by the local board to the state board of education. ***Any expulsion shall be valid throughout the school districts of the state.***

III. Any pupil who brings or possesses a firearm as defined in section 921 of Title 18 of the United States Code in a safe school zone as defined in RSA 193-D:1 without written authorization from the superintendent or designee shall be expelled from school by the local school board for a period of not less than 12 months. [Any expulsion shall be subject to review by the local school board if requested by a parent or guardian prior to the start of each school year, and further, any parent or guardian shall have the right to appeal any such expulsion by the local school board to the state board of education.]

2 New Paragraph; School Board Includes Authorized Committee. Amend RSA 193:13 by inserting after paragraph VI the following new paragraph:

VII. For purposes of paragraphs I, II, and III, school board may be either the school board or a subcommittee of the board duly authorized by the school board.

3 Effective Date. This act shall take effect July 1, 1997.

AMENDED ANALYSIS

This bill sets forth procedural requirements relative to the suspension and expulsion of pupils, and provides that the term "school board" includes a duly authorized subcommittee of the board.

SENATOR STAWASZ: This bill provides that principals and superintendents can suspend students for up to ten days and suspensions of more than ten days need to be approved by the school board or an authorized subcommittee of the school board. Any expulsion is valid in all school districts. The bill also provides that any student that violates the safe school laws by bringing a gun to school shall be suspended for a minimum of twelve months. The committee recommends this bill as ought to pass as amended. Thank you.

SENATOR SHAHEEN: Can you tell me what the current policy is now?

SENATOR STAWASZ: I believe that the current policy was five days and this increased it to ten days so that they didn't have to go to the school board for an offense less than ten days.

SENATOR SHAHEEN: Thank you.

Amendment adopted.

Ordered to third reading.

HB 1632, an act authorizing degree granting authority to the Manchester Institute of Arts and Sciences. Education Committee. Vote: 6-0. Ought to pass. Senator Lovejoy for the committee.

SENATOR LOVEJOY: HB 1632 authorizes the Manchester Institute of Arts and Sciences to grant degrees. This bill gives the Postsecondary Education Commission the authority to develop the guidelines for earning the degree from the institute. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HCR 29, encouraging gun safety education programs for children. Education Committee. Vote: 5-0. Ought to pass. Senator Stawasz for the committee.

SENATOR STAWASZ: This House Concurrent Resolution encourages gun safety programs for children such as the Eddy Eagle Gun Safety Program. The issues of educating these children is important and is reflected in a number of children being harmed by guns in the news recently. Eddy Eagle educates them "don't touch," "leave the area," "tell an adult" and this is a resolution to encourage that. We recommend ought to pass.

Adopted.

Ordered to third reading.

HJR 21, an act urging Congress to abolish the federal Department of Education. Education Committee. Vote: 5-2. Ought to pass. Senator Lovejoy for the committee.

SENATOR LOVEJOY: Mr. President, this joint resolution calls for the abolition of the federal Department of Education. The centralized nature of the department is ill equipped to meet the varying needs of the states and the states should be able to decide on their own what is best for the educational needs of their residents. The money that the federal department spends both on the states and for administrative purposes should be sent back to the states. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

Senators Blaisdell, Cohen, Larsen and Pignatelli in opposition to HJR 21.

HB 1145-FN-L, an act authorizing municipalities to charge fees for certain administrative costs connected with excavation permits. Environment Committee. Vote: 6-0. Ought to pass with amendment. Senator Russman for the committee.

5553L

Amendment to HB 1145-FN-LOCAL

Amend the bill by replacing section 1 with the following:

1 Excavation Permits; Cease and Desist Order Authorized. Amend RSA 155-E:10, II to read as follows:

II. Fines, penalties, and remedies for violations of this chapter shall be the same as for violations of RSA title LXIV, as stated in RSA 676:15 [and], 676:17, **676:17-a, and 676:17-b. In addition, the regulator or a person directly affected by such violation may seek an order from the superior court requiring the violator to cease and desist from violating any provision of a permit or this chapter and to take such action as may be necessary to comply with the permit and this chapter. If the superior court issues such an order, the**

superior court in its discretion may award all costs and attorneys' fees incurred in seeking such an order to the regulator or person directly affected by such violation.

SENATOR RUSSMAN: This bill authorizes municipalities to charge fees for certain administrative costs with connection of excavation permits. This was worked out by all of the parties in terms of the excavators and the gravel people and so on and all of the different groups were in favor of the bill and it was unanimous in terms of the support.

Amendment adopted.

Ordered to third reading.

HB 1149-L, an act relative to permits issued prior to burning materials. Environment Committee. Vote: 6-0. Inexpedient to legislate. Senator F. King for the committee.

Senator F. King moved to have **HB 1149-L**, an act relative to permits issued prior to burning materials, laid on the table.

Adopted.

LAID ON THE TABLE

HB 1149-L, an act relative to permits issued prior to burning materials.

HB 1192, an act relative to the definition of developed waterfront property. Environment Committee. Vote: 6-0. Ought to pass. Senator Cohen for the committee.

SENATOR COHEN: HB 1192 expands the definition of developed waterfront property to include land within 200 feet of tidal waters. This places the same requirements on tidal water property as it does for lakefront property by requiring a site assessment study to determine if the site meets septic system standards. The Department of Environmental Services has indicated that they will provide seacoast realtors with a listing of property which will be affected by this legislation. The Environment Committee unanimously recommends passage of HB 1192.

Adopted.

Ordered to third reading.

HB 1289-L, an act relative to restrictions on waters used as a public water supply. Environment Committee. Vote: 6-0. Ought to pass with amendment. Senator Cohen for the committee.

5645L

Amendment to HB 1289-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to restrictions on waters used as a public water supply,
requiring municipal approval for certain water withdrawals
and relative to state water pollution control and
drinking water revolving loan funds.

Amend the bill by replacing all after section 2 with the following:

3 New Section; Approval for Water Withdrawal Required. Amend RSA 481 by inserting after section 13 the following new section:

481:13-a Water Withdrawal; Municipal Approval. Notwithstanding any provision of law to the contrary, before any private water company may withdraw water in excess of 100,000 gallons per day from a well located

in one municipality for use in a different municipality, such water company shall provide written notice to the residents of the municipality in which the well is located.

4 Drinking Water Revolving Loan Fund Added. Amend the section heading of RSA 486:14 and RSA 486:14, I to read as follows:

486:14 State Water Pollution Control *and Drinking Water* Revolving Loan [Fund] *Funds*.

I.(a) Authority is granted for the state of New Hampshire to participate in the federally funded state water pollution control *and drinking water* revolving loan [fund] *funds* as may be provided under the Clean Water Act, *the Safe Drinking Water Act, or related federal legislation* as amended from time to time. The loan [fund] *funds* shall be administered by the commissioner of the department of environmental services under rules adopted by the commissioner under the provisions of RSA 541-A.

(b) *A sum equal to one percent of all loan principal balances outstanding each year, which shall be an administrative charge, shall be set aside to be used by the department of environmental services to pay the costs of administering the state water pollution control and drinking water revolving loan funds. The funds set aside shall be deposited in nonlapsing water pollution control and drinking water loan administration funds and shall be continually appropriated to the department exclusively for the purposes of this section.*

(c) The department of environmental services is authorized to review projects funded from the state water pollution *and drinking water* revolving loan [fund] *funds* for impacts on the human and natural environment similar in intent to the steps described in 40 CFR part 6, sections 506 and 508 through 511, pursuant to rules adopted by the commissioner of the department of environmental services under RSA 541-A.

(d) A committee composed of the governor or designee, the commissioner of environmental services or designee, the state treasurer or designee, one member of the executive council to be named by the governor, the chairman of the senate capital budget committee or designee, the chairman of the house resources, recreation and development committee or designee, one member of the house of representatives appointed by the speaker of the house, and one member of the senate appointed by the president of the senate, shall assist and advise the commissioner of environmental services in developing guidelines and rules for determining eligibility and the administration of the loan [fund] *funds*.

5 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Prohibits the construction of any privately owned or maintained boat access area on any public waters which serve as a public water supply without the approval of the department of environmental services and prior consultation of the public water access advisory board and notification to the public utilities commission.

II. Requires a private water company to provide written notice to the residents of the municipality where a water source is located prior to withdrawing water in excess of 100,000 gallons per day for use in a different municipality.

III. Authorizes the state, through the department of environmental services, to participate in the federally funded state drinking water revolving loan fund.

SENATOR COHEN: HB 1289 is designed to treat public and private boat access on a public water supply alike, by prohibiting any such access without approval of the Department of Environmental Services in conjunction with the Public Utilities Commission and the Public Water Access Advisory Board. This, as well as the language in the amendment, is the intent of the committee to make this language prospective. Further, the committee amendment requires that a municipality be notified when another municipality will begin tapping into its main water source. There was a problem in that the town of Stratham was being tapped by Hampton at a rate of about 100,000 gallons a day, and this was all done without notification. This will require notification at minimum. The Environment Committee unanimously recommends HB 1289 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1323, an act establishing a committee to study the issue of the use, and disposal of sludge or septage, and requiring notification to certain persons before the application of sludge or septage. Environment Committee. Vote: 6-0. Ought to pass with amendment. Senator Cohen for the committee.

5657L

Amendment to HB 1323

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Spreading Septage or Sludge; Notice Required. Amend RSA 431:35 by inserting after paragraph II the following new paragraph:

III.(a) No person shall spread septage or sludge as defined in RSA 485-A:2 before providing notice in accordance with this paragraph.

(b) Notice shall be provided, at least 30 days prior to commencing any spreading of septage or sludge, to the following:

(1) The governing body of the municipality in which the proposed spreading site is located and the adjacent municipality if any of the abutters to be notified are located in an adjacent municipality;

(2) All abutters to the proposed spreading site;

(3) All other landowners within 500 feet of the area on which the activity will occur; and

(4) The department.

(c) If the person giving the notice owns any abutting parcel of land, the notice shall be sent to the landowner of the next parcel not owned by the person.

(d) The notice required under subparagraph (b) shall be in writing and:

(1) Sent by certified mail, return receipt requested; or

(2) Delivered in hand, in which case a signed acknowledgment from the recipient that the notice was received shall be obtained; or

(3) Sent by first class mail, in which case a certificate of mailing shall be obtained from the United States post office at which the notices were mailed.

(e) If a person to whom notice is required to be given refuses to sign for the certified mail or refuses to sign an acknowledgment when the notice is delivered in hand, the person giving the notice shall so indicate in an affidavit submitted to the department.

(f) Notice shall also be provided:

(1) By publishing a notice at least 14 days before the intended date of the first annual spreading of the septage or sludge in a newspaper of general circulation in the town or city; and

(2) By posting notice on the entrances to the site for 3 days prior to the application and 3 days after the application.

(g) Notices required by this paragraph shall contain the following information:

(1) Identification of the proposed site, including street address and municipality.

(2) The names, addresses, and telephone numbers of the following:

(i) The applicant, if applicable;

(ii) The generator of the sludge, if applicable;

(iii) The person responsible for managing the activities on-site, if different from the applicant under subparagraph (i); and

(iv) The landowner, if not given under subparagraph (i) or (iii).

(3) Identification of the quantity of septage or sludge to be received at the site;

(4) The source of the septage or sludge;

(5) The proposed date of commencement of the spreading of septage or sludge.

(h) This paragraph shall not apply to the application of exceptional quality domestic sludge. "Exceptional quality domestic sludge" shall mean sludge which meets all of the following:

(1) The pollutant concentrations contained in 40 CFR 503.13(b)(3);

(2) The Class A pathogen reduction requirements contained in 40 CFR 503.32(a); and

(3) One of the vector attraction reduction requirements contained in 40 CFR 503.33(b)(1) through 503.33(b)(8).

Amend the bill by replacing section 3 with the following:

3 Membership. The committee shall consist of 6 members of the house of representatives, at least 4 of whom shall be members of the environment and agriculture committee, appointed by the speaker of the house.

Amend the bill by replacing section 5 with the following:

5 Mileage; Report. Members shall receive mileage at the legislative rate for attending to duties of the committee. The committee shall submit its report with any recommended legislation to the speaker of the house, the house clerk, and the state library on or before November 1, 1996.

AMENDED ANALYSIS

This bill:

(1) Establishes a committee to study the issue of the use, application, and disposal of sludge or septage.

(2) Requires a person intending to use domestic sludge or septage to notify certain property owners and others and post a notice at the entrances to the site.

SENATOR COHEN: HB 1323 institutes notification requirements before sludge can be spread. This is in response to several situations in New Hampshire last summer in which the public became aware of sludge disposal in their communities after the fact. HB 1323 also creates a six-member study committee to examine public safety issues surrounding sludge disposal. The Environment Committee unanimously recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1555-FN-A, an act authorizing the commissioner of the department of environmental services to impose administrative fines for certain environmental violations and continually appropriating certain fine revenues. Environment Committee. Vote: 6-0. Ought to pass with amendment. Senator Pignatelli for the committee.

5447L

Amendment to HB 1555-FN-A

Amend RSA 125-C:2, VIII-b as inserted by section 1 of the bill by replacing it with the following:

VIII-b. "Major deviation from requirement" means the violator deviated from a requirement of a statute or rule to such an extent that there is substantial non-compliance.

Amend the introductory paragraph of RSA 125-C:15, I-b as inserted by section 4 of the bill by replacing it with the following:

I-b. The commissioner of the department of environmental services, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter, any rule adopted pursuant to this chapter, or any permit, compliance schedule, stop use order, or order of abatement, issued pursuant to this chapter; or upon any person who makes or certifies a material false statement relative to any document or information which is required to be submitted to the division pursuant to this chapter or any rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this paragraph shall not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines imposed pursuant to this paragraph shall be deposited in the general fund.

Amend the introductory paragraph of RSA 125-D:4 as inserted by section 5 of the bill by replacing it with the following:

125-D:4 Administrative Fines. The commissioner of the department of environmental services, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter, any rule adopted pursuant to this chapter, or any permit or order issued pursuant to this chapter; or upon any person who makes or certifies a material false statement relative to any document or information which is required to be submitted to the division pursuant to this chapter or any rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner under this section shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines imposed pursuant to this section shall be deposited in the general fund.

Amend RSA 125-D:4, II as inserted by section 5 of the bill by replacing it with the following:

II. The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b).

Amend the introductory paragraph of RSA 125-I:4 as inserted by section 6 of the bill by replacing it with the following:

125-I:4 Administrative Fines. The commissioner of the department of environmental services, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense

upon any person who violates any provision of this chapter, any rule adopted pursuant to this chapter, or any permit or order issued pursuant to this chapter; or upon any person who makes or certifies a material false statement relative to any document or information which is required to be submitted to the division pursuant to this chapter or any rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner under this section shall be in accordance with RSA 541-A. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines imposed pursuant to this section shall be deposited in the general fund.

Amend RSA 125-I:4, II as inserted by section 6 of the bill by replacing it with the following:

II. The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b).

Amend the introductory paragraph of RSA 125-J:8, I-a as inserted by section 7 of the bill by replacing it with the following:

I-a. The commissioner of the department of environmental services, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter, any rule adopted pursuant to this chapter, or any permit, compliance schedule, stop use order, or order of abatement issued pursuant to this chapter; or upon any person who makes or certifies a material false statement relative to any document or information which is required to be submitted to the division pursuant to this chapter or any rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this paragraph shall not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines imposed pursuant to this paragraph shall be deposited in the general fund.

Amend RSA 125-J:8, I-a (b) as inserted by section 7 of the bill by replacing it with the following:

(b) The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b).

Amend the bill by replacing section 8 with the following:

8 Commissioner of Environmental Services; Authority to Impose Administrative Fines; Asbestos Management and Control. Amend RSA 141-E:15-a to read as follows:

141-E:15-a Administrative Fines.

I. The commissioner of the department of health and human services, after notice and hearing, pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter or rules adopted under this chapter. Rehearings and appeals from a decision of the commissioner shall be in accordance with RSA 541. Any administrative fine imposed under this [section] **paragraph** shall not preclude the imposition of further penalties or administrative actions under this chapter. The commissioner shall adopt rules in accordance with RSA 541-A relative to administrative fines which shall be scaled to reflect the scope and severity of the violation. The sums obtained from the levying of administrative fines under this [chapter] **paragraph** shall be forwarded to the state treasurer to be deposited into the general fund.

II. *The commissioner of the department of environmental services, after notice and hearing pursuant to RSA 541-A, may im-*

pose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of RSA 141-E:3, II or any rule adopted by the commissioner of the department of environmental services under this chapter; or upon any person who makes or certifies a material false statement relative to any document or information which is required to be submitted to the department of environmental services pursuant to this chapter or any rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner of the department of environmental services under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this paragraph shall not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines levied pursuant to this paragraph shall be deposited by the commissioner of the department of environmental services in the fund established by RSA 141-E:12, II.

(a) Notice and hearing prior to the imposition of an administrative fine shall be in accordance with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA 541-A:16.

(b) The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b).

(c) The commissioner of the department of environmental services may assess an additional fine for repeat violations.

SENATOR PIGNATELLI: HB 1555 gives the Division of Air Resources the authority to assess fines for environmental violations in the areas of air pollution control and acid rain control, air toxic control, asbestos management and control, and the emissions reduction credits trading program. The lack of enforcement and authority has hindered the division's ability to make any noticeable progress in these areas. The Environment Committee recommends HB 1555 unanimously as ought to pass as amended. Thank you.

Recess.

Out of recess.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HCR 27, an act urging Congress to reauthorize the Safe Drinking Water Act. Environment Committee. Vote: 4-1. Inexpedient to legislate. Senator Russman for the committee.

Senator Russman moved to recommit.

Adopted.

HCR 27 is recommitted.

HB 520-FN-L, an act relative to the regulation of rural electric cooperatives by the public utilities commission. Executive Departments and Administration Committee. Vote: 5-0. Interim study. Senator Keough for the committee.

Senator Keough moved to recommit.

Adopted.

HB 520-FN-L is recommitted.

HB 1239-FN, an act relative to the regulatory authority of the state board of auctioneers and professional standards for auctioneers. Executive Departments and Administration Committee. Vote: 3-2. Inexpedient to legislate. Senator Rodeschin for the committee.

SENATOR RODESCHIN: This bill was designed to revise the regulatory authority and the duties of the Board of Auctioneers. The committee felt that the bill went too far in certain areas and voted inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1267, an act relative to retail licenses to sell pistols and revolvers. Executive Departments and Administration Committee. Vote: 4-1. Ought to pass with amendment. Senator Colantuono for the committee.

5581L

Amendment to HB 1267

Amend the title of the bill by replacing it with the following:

AN ACT

relative to retail licenses to sell pistols and revolvers and
to licenses to carry pistols and revolvers.

Amend the bill by inserting after section 1 the following and by renumbering the original section 2 to read as 3:

2 License to Carry. Amend RSA 159:6 to read as follows:

159:6 License to Carry. The selectmen of a town or the mayor or chief of police of a city or some full-time police officer designated by them respectively, upon application of any resident of such town or city, or the director of state police, or some person designated by such director, upon application of a nonresident, shall issue a license to such applicant authorizing the applicant to carry a loaded pistol or revolver in this state for not [more] *less* than 4 years from the date of issue, if it appears that the applicant has good reason to fear injury to the applicant's person or property or has any proper purpose, and that the applicant is a suitable person to be licensed. Hunting, target shooting, or self defense shall be considered a proper purpose. The license shall be valid for all allowable purposes regardless of the purpose for which it was originally issued. The license shall be in duplicate and shall bear the name, address, description, and signature of the licensee. The original shall be delivered to the licensee and the duplicate shall be preserved by the people issuing the same for 4 years. When required, license renewal shall take place within the month of the fourth anniversary of the license holder's date of birth following the date of issuance. The license shall be issued within 14 days after application, and, if such application is denied, the reason for such denial shall be stated in writing, the original of which such writing shall be delivered to the applicant, and a copy kept in the office of the person to whom the application was made. The fee for licenses issued to residents of the state shall be \$10, which fee shall be for the use of the law enforcement department of the town granting said licenses; the fee for licenses granted to out-of-state residents shall be \$20, which fee shall be for the use of the state. The director of state police is hereby authorized and directed to prepare forms for the licenses required under this chapter and forms for the application for such licenses and to supply the same to officials of the cities and towns authorized to issue [said] *the* licenses. No other forms shall be used by officials of cities and towns. The cost of [said] *the* forms shall be paid out of the fees received from nonresident licenses.

AMENDED ANALYSIS

This bill authorizes localities to issue licenses of up to 3 years' duration to sell pistols and revolvers at retail. Currently localities may issue such licenses for a period of up to one year.

The bill also changes the duration of licenses to carry pistols and revolvers from not more than 4 years to not less than 4 years.

SENATOR COLANTUONO: The amendment to this bill fixes a problem that we have with the license to carry a concealed permit. Right now the law says that your license is good for not more than four years, but then it says that it expires during the month of your birth, which leads to an inconsistency and could create a problem, so we are changing the language to say that a license is good for not less than four years. The main part of the law extends the license holding period for persons, retailers, from one year to three years. Thank you.

Amendment adopted.

Ordered to third reading.

HB 1455, an act relative to the permissible fireworks review committee. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Stawasz for the committee.

5622L

Amendment to HB 1455

Amend the bill by replacing all after section 1 with the following:

2 Definition Changed. Amend RSA 160-B:1, I to read as follows:

I. "Fireworks" means class B special fireworks and class C common fireworks as defined in this section. ***"Fireworks" shall not include novelty items defined under paragraph V-c.***

3 New Paragraph; Definition Added. Amend RSA 160-B:1 by inserting after paragraph V-b the following new paragraph:

V-c. "Novelty items" mean the items listed below:

(a) Party popper, meaning a small plastic or paper item containing not more than 16 milligrams (0.25) grains of chemical composition that is friction sensitive and that expels paper streamers, producing a small report, when a string or trigger is pulled.

(b) Snake/glowworm, meaning a pressed pellet of pyrotechnic composition that does not contain mercuric thiocyanate and that produces upon burning a large snake-like ash, that expands in length as the pellet burns.

(c) Snapper, meaning a small, paper-wrapped item containing a minute quantity of chemical composition coated on bits of sand. When dropped, the device produces a small report.

4 Permissible Fireworks Review Committee. Amend RSA 160-B:23, I to read as follows:

I. There is hereby established a permissible fireworks review committee. The composition of this committee shall be as follows: one senator, ***and an alternate who shall also be a senator***, appointed by the senate president; one representative, ***and an alternate who shall also be a representative, both of whom*** shall be [a member] ***members*** of the house public protection and veterans affairs committee, appointed by the speaker; the director of the division of state police, or designee; the [director of fire service] ***state fire marshal***, or designee; 2 members representing the fireworks industry, ***who shall be associated with the retailing of consumer class fireworks***, appointed by the governor; and [one member] ***2 members, one of whom shall be an alternate***, repre-

senting the New Hampshire Association of Fire Chiefs, appointed by the governor. The term of office of each member appointed by the governor shall be 2 years and until a successor is appointed and qualified; provided that the first appointments of these 3 members shall be as follows: one for one year, one for 2 years and one for 3 years. The other members of the committee shall serve terms coterminous with their terms in office. Vacancies shall be filled in the same manner for unexpired terms. Members shall serve without compensation, except that the legislative members shall receive mileage at the legislative rate.

5 Penalty Added. Amend RSA 160-B:20 to read as follows:

160-B:20 Sales of Permissible Fireworks Allowed; **Penalty**

I. Notwithstanding RSA 160-B:2, a person who is licensed pursuant to RSA 160-B:6 may sell permissible fireworks to a person 21 years of age or older. Any person who sells permissible fireworks shall not mix permissible fireworks with any other fireworks when displaying them for sale. Any person who sells permissible fireworks shall post in a conspicuous place on the sales premises a list, prepared by the commissioner, of all municipalities in the state where the display or possession of permissible fireworks is prohibited **and a list of current permissible fireworks provided by the department of safety.**

II. Any person who violates the provisions of this section shall be guilty of a violation if a natural person, or guilty of a class B misdemeanor if any other person. In addition, the commissioner may revoke the violator's license for a minimum period of 10 consecutive days, but not to exceed 14 days. On the fourth violation of this section the commissioner shall revoke the license for the remainder of the licensure term.

6 Penalty Added. Amend RSA 160-B:21 to read as follows:

160-B:21 Possession and Display of Permissible Fireworks; **Penalty.**

I. Notwithstanding RSA 160-B:4, a person who is 21 years of age or older may possess permissible fireworks except in a municipality which has voted to prohibit possession pursuant to RSA 160-B:10. Notwithstanding RSA 160-B:3, a person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner's presence or as authorized by RSA 160-B:7, except in a municipality which has voted to prohibit display pursuant to RSA 160-B:10.

II. Any person who violates the provisions of this section shall be guilty of a violation. In addition, the commissioner may revoke the violator's license for a minimum period of 10 consecutive days, but not to exceed 14 days. On the fourth violation of this section, the commissioner shall revoke the license for the remainder of the licensure term.

7 New Section; Transportation. Amend RSA 160-B by inserting after section 22 the following new section:

160-B:22-a Transportation. It shall not be unlawful for a person who has legally purchased permissible fireworks to transport them from the point of purchase to a municipality that has not prohibited the possession of permissible fireworks pursuant to RSA 160-B:10

8 Repeals. RSA 160-B:1, V-b(d), (e), and (f), relative to certain permissible fireworks, are repealed.

9 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill clarifies the membership of the permissible fireworks review committee. The bill deletes certain kinds of permissible fireworks from the law. The bill also adds certain penalties.

SENATOR STAWASZ: The bill clarifies the membership of the Permissible Fireworks Review Committee. It repeals certain kinds of permissible fireworks and allows alternates to attend meetings. This will make certain that if a dangerous device comes on the market that the committee can have a meeting to add the device to the permissible fireworks list. The items removed from the list under the bill are items that are no longer covered by federal regulations and in fact, are not dangerous. The amendment to the bill allows persons to transport permissible fireworks from towns who permit their display through towns that do not without penalty. The committee voted ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 1513, an act relative to filings and records held by the secretary of state. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Rodeschin for the committee.

5589L

Amendment to HB 1513

Amend the title of the bill by replacing it with the following:

AN ACT

relative to filings and records held by the secretary of state and relative to an exemption from securities registration.

Amend the bill by inserting after section 6 the following and renumbering the original section 7 to read as 8:

7 Certain Securities Exempted From Registration. Amend RSA 421-B:17, I(f)(1)(i) and (ii) to read as follows:

(i) The New York Stock Exchange, the American Stock Exchange, *the Chicago Board Options Exchange, the Pacific Exchange*, or the National Association of Securities Dealers Automated Quotation Market System.

(ii) The Boston Stock Exchange[, the Chicago Board Options Exchange] or the securities designated by the board of governors of the Federal Reserve System as "O.T.C. Margin Stocks," if quotations have become available and public trading has taken place for such class of security prior to the offer or sale of that security in reliance upon this exemption.

AMENDED ANALYSIS

This bill makes technical corrections and clarifications to statutes governing filings and records held by the secretary of state.

The bill also exempts securities listed on the Chicago Board Options Exchange and the Pacific Exchange from certain state registration requirements.

Senator Rodeschin moved to recommit.

Adopted.

HB 1513 is recommitted.

SENATOR RODESCHIN: Because of a major amendment being offered to this committee, it needs a public hearing, and to meet the deadlines, I need to notify the public. We will have a public hearing on Wednesday at 10:00 a.m. on the April 17 in room 104 on HB 1513.

HB 1207, an act relative to coinsurance payments for covered services. Insurance Committee. Vote: 6-0. Ought to pass with amendment. Senator Fraser for the committee.

5643L

Amendment to HB 1207

Amend RSA 420-I:4, I as inserted by section 2 of the bill by replacing it with the following:

I. The commissioner of insurance shall enforce this chapter and shall adopt rules under RSA 541-A as are reasonably necessary for the proper enforcement of this chapter.

Senator Fraser moved to recommit.

Adopted.

HB 1207 is recommitted.

HB 1306, an act exempting certain outpatient facilities under the licensure law. Insurance Committee. Vote: 6-0. Ought to pass with amendment. Senator Fraser for the committee.

5651L

Amendment to HB 1306

Amend the title of the bill by replacing it with the following:

AN ACT
exempting certain health clinics under
the licensure law.

Amend the bill by replacing all after the enacting clause with the following:

1 Certain Clinics Not Subject to Licensure. Amend RSA 151:2, I(d) to read as follows:

(d) Facilities or portions of a facility operating as an outpatient rehabilitation clinic, ambulatory surgical center[, community health clinic], hospice, emergency medical care center, drop-in or walk-in care center, dialysis center, birthing center, or other entity where health care associated with illness, injury, deformity, infirmity or other physical disability is provided, whether operated for profit or for free or at a reduced cost, however named, and whether owned by a hospital or hospital holding corporation or operated as part of a hospital's services.

2 Exemption Added. Amend RSA 151:2, II(g) to read as follows:

(g) Facilities operating as community health clinics.

[(g)](h) Any other facility exempted by rules adopted under this chapter.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill exempts certain health clinics from licensure under RSA 151.

SENATOR FRASER: Mr. President, this bill exempts all outpatient clinics that provide clinical diagnostic, therapeutic and preventive care from state licensure. These clinics act in a very similar manner as doctors' offices which are also not required to be licensed. The committee amended the bill to exempt, specifically, community health clinics. The committee was unanimous in recommending this bill as amended as ought to pass.

Amendment adopted.

Ordered to third reading.

HB 1331-FN, an act relative to clarifying certain provisions under the workers' compensation law. Insurance Committee. Vote: 6-0. Ought to pass with amendment. Senator Danais for the committee.

5644L

Amendment to HB 1331-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to clarifying certain provisions under the workers' compensation law, changing the membership of the workers' compensation advisory council, relative to fees for inspection certificates for elevators, and relative to certain salaries in the departments of employment security and labor.

Amend the bill by replacing section 1 with the following:

1 Reference Change. Amend RSA 281-A:38 to read as follows:
281-A:38 Medical Examinations.

I. Any employee entitled to receive weekly payments under this chapter shall, if requested by the employer or ordered by the commissioner, submit himself or herself for examination by a duly qualified [medical practitioner or surgeon provided] **health care provider, in accordance with professional standards as established by the commissioner,** and paid by the employer at a time and place reasonably convenient for the employee. The employee shall have the right to have a [physician or surgeon] **health care provider** designated and paid by himself or herself present at such examination. This right, however, shall not be construed to deny to the employer's [physician or surgeon] **health care provider** the right to visit the injured employee at all reasonable times and under all reasonable conditions, so long as the employee claims compensation under this chapter.

II. Any health care provider conducting independent medical examinations under this chapter shall be certified by the appropriate specialty board [in such provider's area of specialty] **as recognized by the American Board of Medical Specialties or obtain the approval of the commissioner for those specialties not recognized by such board. The health care provider shall maintain a current practice in that area of specialty.** The independent medical examination shall take place within a 50-mile radius of the residence of the injured employee, unless, within the discretion of the commissioner, examination outside the 50-mile radius is necessary to obtain the services of a provider who specializes in the [particular injury suffered by the employee] **evaluation and treatment specific to the nature and extent of the employee's injury.** The injured employee shall not be required to submit to more than 2 independent medical examinations per year, unless within the discretion of the commissioner, more than 2 examinations are necessary.

Amend the bill by replacing section 5 with the following:

5 Qualifications of Appointees. Amend RSA 281-A:42-a, I to read as follows:

I. There is established a compensation appeals board. The board shall consist of a pool of 33 members, of which 11 members shall represent labor, 11 members shall represent employers or workers' compensation insurers and 11 members shall be attorneys who shall be neutral. Members of the board shall be appointed by the governor and council from a list of nominees submitted by the commissioner. The commissioner shall submit at least 2 nominees for each vacancy to be filled. **Any person appointed by the governor and council who is not qualified or who**

ceases to be qualified in the capacity in which such person is serving on the appeals board shall be replaced by the governor and council. Terms of board members shall be 4 years, except the initial appointments shall be staggered so that no more than 1/3 of the members' terms shall expire in the same year. Members of the board shall have at least 5 years' experience in the area of workers' compensation. Appeals from a decision of the commissioner or the commissioner's representative shall be heard de novo by a 3-member panel, composed of an attorney who shall serve as chair, one member representing labor and one member representing employers or workers' compensation insurers. At least 2 like votes shall be necessary for a decision by the panel. The board shall hear appeals, in accordance with RSA 281-A:43, I(b), from the decisions of the commissioner made pursuant to RSA 281-A:43. No person who is an interested party or an employee of an interested party shall participate as a member of the panel. The board shall conduct its proceedings in such a manner as to ensure a fair and impartial hearing.

6 Membership of Council Changed. Amend RSA 281-A:62, I to read as follows:

I. There is hereby established an advisory council on workers' compensation. The advisory council shall consist of [9] **8** members: the commissioner or a designee; the insurance commissioner or a designee; one member of the house of representatives, appointed by the speaker of the house; one member of the senate, appointed by the president of the senate; and [5] **4** persons appointed by the governor and council, one representing the interests of management, who shall not have interests in the insurance field, one representing the interests of labor, one representing insurance interests of commercial workers' compensation carriers, [one representing self-funded employers] and one representing health care providers. The legislative members of the advisory council and the [5] **4** members appointed by the governor and council shall be familiar with the workers' compensation laws of New Hampshire. Any person appointed by the governor and council who is not qualified or who ceases to be qualified in the capacity in which such person is serving on the advisory [committee] **council** shall be replaced by the governor and council. The advisory council shall discuss problems related to the administration of this chapter and shall discuss policy goals. The advisory council shall also ratify managed care programs established under RSA 281-A:23-a. The term of office of each member appointed by the governor and council shall be 3 years and until a successor is appointed and qualified. Vacancies shall be filled in the same manner and for the unexpired terms. Each member of the advisory council shall be reimbursed for necessary travel and other necessary expenses.

7 Enforcement Added. Amend the section heading of RSA 281-A:64 to read as follows:

281-A:64 Safety Provisions; Administrative Penalty **and Enforcement.**

8 New Paragraph; Enforcement. Amend RSA 281-A:64 by inserting after paragraph IX the following new paragraph:

X. Whenever the commissioner concludes on the basis of an inspection that conditions or practices exist in any place of employment which could reasonably be expected to cause death or serious physical harm, the commissioner may direct that work in the area of endangerment cease until the danger is abated. No employee shall suffer loss of wages, salary, seniority, fringe benefit, or other benefit as a result of the commissioner's order.

9 Fees. Amend RSA 157-B:5, I to read as follows:

I. Subsequent to the inspection of an elevator, an inspector shall file with the commissioner an inspection report on a form prescribed by the commissioner indicating whether or not the elevator is certifiable and shall provide a copy of the inspection report to the owner or the owner's designee. When an elevator passes inspection, the commissioner shall furnish an inspection certificate to its owner or the owner's designee on a form prescribed by the commissioner. A fee of [\$45] **\$25** shall be charged for each certificate. If the fee is not paid within 30 days of the date on which the certificate is issued, the certificate shall be void.

10 Deputy Commissioner of the Department of Employment Security. Amend RSA 282-A:109 to read as follows:

282-A:109 Deputy Commissioner. [There shall be] ***The commissioner of the department of employment security shall appoint*** a deputy commissioner of the department of employment security who shall act as commissioner whenever the commissioner of the department of employment security is incapacitated, absent or unable to act for any cause. The deputy commissioner shall also act as commissioner of the department of employment security until a new commissioner is duly appointed whenever there is no commissioner. [During such period as the deputy commissioner acts as commissioner, his status as a classified state employee shall continue and shall in no way be altered, affected or changed.] ***The deputy commissioner shall be compensated in accordance with the provisions of RSA 94:1-a and may be removed from office only in accordance with RSA 4:1.***

11 Salaries. Amend RSA 94:1-a, I-a by:

I. Deleting in group K, deputy labor commissioner.

II. Deleting in group N:

(a) labor commissioner.

(b) general counsel, department of employment security.

III. Deleting in group P, commissioner, department of employment security.

IV. Inserting in group O:

(a) deputy labor commissioner.

(b) general counsel, department of employment security.

V. Inserting in group P, deputy commissioner, department of employment security.

VI. Inserting in group R, labor commissioner.

VII. Inserting in group T, commissioner, department of employment security.

12 Application. Notwithstanding any provision of law to the contrary, the persons serving as deputy labor commissioner, or labor commissioner on the effective date of this section shall be placed on the minimum step in the new group and shall thereafter be entitled to an annual increase in salary within such group in the ordinary course, pursuant to RSA 94:3.

13 Effective Date.

I. Sections 11 and 12 of this act shall take effect July 1, 1997.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill clarifies which providers may perform independent medical examination under the workers' compensation law. The bill makes certain technical corrections by adding references to other provisions of the law. The bill changes the membership of the workers' compensation advisory council.

The bill changes the fee for inspection certificates for elevators.

The bill also changes certain salaries of labor department employees and department of employment security employees.

Recess.

Out of recess.

Senator Danaïs moved to recommit.

Adopted.

HB 1331-FN is recommitted.

HB 1345, an act relative to the definition of “unemployment” for the purposes of unemployment compensation, the weekly benefit amount schedule, and designating a portion of the employer contribution to the unemployment compensation fund. Insurance Committee. Vote: 5-1. Ought to pass. Senator Shaheen for the committee.

SENATOR SHAHEEN: HB 1345 modifies the definition of employment to add the language that is in the federal law. It also exempts children of sole proprietorships from the definition of employees which is consistent with federal law. It changes the weekly benefit rate for unemployment compensation, effective in 1997. The bill also designates that one-tenth of one percent of the contributions by employers to the fund, will be used for administrative cost, so it doesn't increase the contribution, it just designates a portion of that for administration. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 1346, an act relative to notice of benefits charges, maximum weekly benefits, and penalties for failure to disclose a material fact under the unemployment compensation laws. Insurance Committee. Vote: 6-0. Ought to pass. Insurance Committee. Senator F. King for the committee.

SENATOR F. KING: This bill does several things in relation to unemployment compensation. It increases the weekly benefit amount for unemployment as recommended by the unemployment compensation advisory council. The bill also changes from weekly to monthly, the time period in which the commissioner needs to notify the employers of benefit changes. Lastly, the bill puts into law, penalties for fraudulent obtaining of benefits. The committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1352, an act relative to insurance coverage during pregnancy and delivery and the postpartum period. Insurance Committee. Vote: 6-0. Ought to pass. Senator Fraser for the committee.

SENATOR FRASER: HB 1352 has to do with the so called “drive-thru baby deliveries.” The bill stipulates that insurers cannot determine the length of a hospital stay or the number of post partum visits a new mother receives from her physician. The length of the stay and a number of visits will be determined by the attending health care provider. If a woman chooses to stay less than the minimum amount of time as accepted by the national guidelines, she may make that decision in consultation with the attending health care provider. This bill will help to elimi-

nate the practice of getting women and children out of hospitals faster than they should which can lead to complications later in many cases. The committee was unanimous in recommending this bill as ought to pass. I might add, Mr. President, that the insurance industry was there to support this legislation. There was no opposition.

SENATOR LARSEN: I just wanted to stand up and say that I think that of all of the bills that we have considered this year, one of the most important was this bill which stands for and responds to the needs that women's health care needs of this state. I want to thank all of you for making this bill happen. I believe that it is, as I say, one of the most important health care issues that the state considered this year. It will be meaningful for both women and their babies. Thank you.

Adopted.

Ordered to third reading.

HB 1369, an act adding new requirements for appeals processes and appeals board membership relating to nonprofit health service corporations and health maintenance organizations. Insurance Committee. Vote: 3-2. Inexpedient to legislate. Senator Danaïs for the committee.

Senator Danaïs moved to have **HB 1369**, an act adding new requirements for appeals processes and appeals board membership relating to nonprofit health service corporations and health maintenance organizations, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1369, an act adding new requirements for appeals processes and appeals board membership relating to nonprofit health service corporations and health maintenance organizations.

HB 1459, an act relative to disclosure of information by insurers. Insurance Committee. Vote: 6-0. Ought to pass with amendment. Senator J. King for the committee.

5649L

Amendment to HB 1459

Amend RSA 419:6-a, II as inserted by section 1 of the bill by replacing it with the following:

II. No contract between a hospital service corporation and a health care provider shall limit what information such health care provider may disclose to patients or to prospective patients regarding the provisions, terms, or requirements of the hospital service corporation's products as they relate to the needs of such provider's patients except for trade secrets of significant competitive value.

Amend RSA 420:8-a, II as inserted by section 2 of the bill by replacing it with the following:

II. No contract between a medical service corporation and a health care provider shall limit what information such health care provider may disclose to patients or to prospective patients regarding the provisions, terms, or requirements of the medical service corporation's products as they relate to the needs of such provider's patients except for trade secrets of significant competitive value.

Amend RSA 420-A:8-a, II as inserted by section 3 of the bill by replacing it with the following:

II. No contract between a health service corporation and a health care provider shall limit what information such health care provider may disclose to patients or to prospective patients regarding the provisions, terms, or requirements of the health service corporation's products as they relate to the needs of such provider's patients except for trade secrets of significant competitive value.

Amend RSA 420-B:12, IX as inserted by section 4 of the bill by replacing it with the following:

IX. No contract between a health maintenance organization and a health care provider shall limit what information such health care provider may disclose to patients or to prospective patients regarding the provisions, terms, or requirements of the health maintenance organization's products as they relate to the needs of such provider's patients except for trade secrets of significant competitive value.

Amend RSA 420-C:5-a, II as inserted by section 5 of the bill by replacing it with the following:

II. No contract between a health care insurer and a health care provider shall limit what information such health care provider may disclose to patients or to prospective patients regarding the provisions, terms, or requirements of the health care insurer's products as they relate to the needs of such provider's patients except for trade secrets of significant competitive value.

AMENDED ANALYSIS

The bill prohibits the limitation of certain information a health care provider may disclose to a patient or to prospective patients.

SENATOR J. KING: HB 1459 prohibits the limitation of disclosure of information by a health care provider to a patient. The amendment is this: or to a prospective patient. This affects the hospital service corporations, the medical service corporations, health service corporations and HMO's. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1485, an act prohibiting insurance companies from mandating that automobile repairs or automobile glass replacements be made at specific repair or replacement shops. Insurance Committee. Vote: 6-0. Ought to pass with amendment. Senator F. King for the committee.

5647L

Amendment to HB 1485

Amend RSA 417:4, XX(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Nothing shall prohibit any insurance company, agent or adjuster from providing to such insured person or entity the name of an automobile glass company ***or automobile repair company*** with which arrangements may have been made with respect to automobile glass ***or repair*** prices or services. If a name is provided, there must be disclosure by the insurance company, agent or adjuster to the insured person or entity that any other automobile glass company ***or automobile repair company*** or location may be used at the discretion of the insured per-

son or entity. However, the insurer may limit payment for such work based on the fair and reasonable price in the area by repair shops or facilities providing similar services with the usual and customary guarantees as to materials and workmanship. If an independent repair shop or facility and an insurer are unable to agree on a price, then for the purposes of this section "fair and reasonable price" shall mean the price available from a recognized, competent and conveniently located, independent repair shop or facility which is willing and able to repair the damaged automobile within a reasonable time.

AMENDED ANALYSIS

This bill makes it an unfair insurance trade practice for insurance companies to require that automobile repairs be made at specific repair shops.

Sections 2-19 make changes to gender specific language in RSA 417 to make them gender neutral in compliance with RSA 17-A:6.

SENATOR F. KING: This bill prohibits insurers from mandating that people bring their cars to certain auto repair shops in order for the insurer to cover the damage, specifically, glass damage. The insurers can provide names of repair shops that they have special deals with, but they also must disclose that the customer may choose an alternate location. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1545, an act recognizing the validity of faxed search and arrest warrants and domestic violence orders. Judiciary Committee. Vote: 6-0. Ought to pass with amendment. Senator Wheeler for the committee.

5648L

Amendment to HB 1545

Amend the title of the bill by replacing it with the following:

AN ACT
recognizing the validity of faxed search and
arrest warrants.

Amend RSA 595-A:10 as inserted by section 1 of the bill by replacing it with the following:

595-A:10 Validity of Faxed Warrants and Orders. Search warrants and arrest warrants may be applied for and issued by facsimile transmission. The original documents, including the warrant application, the warrant, and the supporting affidavit must be received by the authorizing judge within 24 hours.

AMENDED ANALYSIS

This bill recognizes the validity of faxed search and arrest warrants.

SENATOR WHEELER: As the title says, this bill recognizes the validity of faxed search warrants and arrest warrants and the application for those search and arrest warrants.

Amendment adopted.

Ordered to third reading.

HB 277, an act relative to the joint health council. Public Institutions, Health and Human Services Committee. Vote: 4-0. Ought to pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 277 amends the existing joint health council membership to detail certain designees and to include advanced registered nurses. It also specifies the terms of these appointees to be a three year term and that they shall not serve more than two terms. Finally, it identifies the administrative expenses and support services "shall be provided by the board of nursing." The committee urges ought to pass.

Adopted.

Ordered to third reading.

HB 1141, an act relative to youth employment. Public Institutions, Health and Human Services Committee. Vote: 4-0-1 abstain. Inexpedient to legislate. Senator Wheeler for the committee.

SENATOR WHEELER: This bill was a very controversial bill in the House Labor Committee and it barely made it out of it. This bill would make you a criminal if you allowed your child to shovel someone's walk more than three times in one year by redefining the definition of casual work. Also a fifteen-year-old couldn't babysit after 7 p.m. during the school year. We thought that this bill was very overly restrictive and we recommend it inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1298, an act relative to driver's licenses and motor vehicle registrations for members of the armed forces and their spouses. Transportation Committee. Vote: 6-0. Ought to pass with amendment. Senator F. King for the committee.

5539L

Amendment to HB 1298

Amend RSA 261:45-a, II as inserted by section 1 of the bill by replacing it with the following:

II. For the purposes of this chapter, the spouse of any resident of this state on active duty in the armed forces of the United States may elect to register as a New Hampshire resident if the spouse has previously established residency in New Hampshire.

Amend RSA 263:5-b, II as inserted by section 2 of the bill by replacing it with the following:

II. A resident of this state, and such resident's spouse who has previously established residency in New Hampshire, on active duty in the armed forces of the United States may elect to obtain a New Hampshire driver's license by applying in person to the department.

AMENDED ANALYSIS

This bill:

(1) Allows a resident of New Hampshire to maintain residency while on active duty in the armed forces of the United States for the purposes of obtaining driver's licenses and motor vehicle registrations.

(2) Allows the spouse of a New Hampshire resident on active duty in the armed forces of the United States to obtain a driver's license and register a motor vehicle in this state if spouse elects to do so and if the spouse has previously established residency in New Hampshire.

SENATOR F. KING: HB 1298 allows an active duty member of the armed forces and their spouse, who is previously of established residency in New Hampshire, to obtain a state driver's license. The bill simplifies the process by which men and women who are presently serving in the military

and who are stationed out of state, can obtain their New Hampshire residency and driving privileges. The committee recommends HB 1298 as ought to pass as amended. Thank you.

Amendment adopted.

Ordered to third reading.

HB 1508-FN, an act requiring the department of safety to keep drivers' records confidential except for certain reasons. Transportation Committee. Vote: 6-0. Ought to pass with amendment. Senator Gordon for the committee.

5636L

Amendment to HB 1508-FN

Amend the bill by replacing section 1 with the following:

1 Availability of Records. RSA 260:14 is repealed and reenacted to read as follows:

260:14 Records and Certification.

I. In this section:

(a) "Motor vehicle records" means all applications, reports required by law, registrations, histories, certificates and licenses issued or revoked by the department and the information, including personal information, contained in them.

(b) "Person" means an individual, organization or entity, but shall not include this state or an agency thereof.

(c) "Personal information" means information in motor vehicle records that identifies a person, including a person's photograph or computerized image, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information.

II.(a) Proper motor vehicle records shall be kept by the department at its office. Notwithstanding RSA 91-A or any other provision of law to the contrary, except as otherwise provided in this section, such records shall not be public records or open to the inspection of any person.

(b) Copies of such records, duly attested and certified by the director, or designee, shall be as competent evidence in any court within this state as the original record or document would be if produced by such person as the legal custodian. A hearings examiner shall be considered a legal custodian of motor vehicle records for the purpose of testifying at a trial.

III. Motor vehicle records shall be made available in response to a request from a state, a political subdivision of a state, pursuant to a court order, the federal government, or a law enforcement agency for use in official business.

IV. Except for a person's photograph, computerized image and social security number, motor vehicle records shall be made available, upon proof of the identity of the person requesting the records and representation by such person on a form satisfactory to the department that the use of the records will be strictly limited to one of the following described uses:

(a) Motor vehicle manufacturers, or their authorized agents, for use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles and dealers by motor vehicle manufacturers; and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the

purposes of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

(b) Insurance companies authorized to write automobile insurance policies in this state, or by self-insured entities, or their authorized agents, for use in connection with claims investigation activities, anti-fraud activities, rating or underwriting.

V.(a) Except for a person's photograph, computerized image and social security number, motor vehicle records may be made available upon proof of the identity of the person requesting the records and representation by such person on a form satisfactory to the department that the use of the records will be strictly limited to one or more of the following described uses, each such use to be separately described:

(1) For use by a legitimate business in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.

(2) For use with respect to a request for a named person's motor vehicle records in connection with any civil, criminal, administrative or arbitral proceeding in any court or government agency, including the service of process and the execution or enforcement of judgments and orders, pursuant to an order of the court or agency.

(3) For use with respect to a request for a named person's motor vehicle records by a banking or similar institution for appropriate banking purposes.

(4) For use by a legitimate business in research activities, and for use by a legitimate business in statistical reports, so long as any personal information is not published, redisclosed, or used to contact individuals.

(5) For use with respect to a request for a named person's motor vehicle records in providing notice to the owners of towed or impounded vehicles.

(6) For use with respect to a request for a named person's motor vehicle records by any private investigative agency or security service licensed by this state for any purpose permitted under subparagraph V(a) other than subparagraph V(a)(9).

(7) For use with respect to a request for a named person's motor vehicle records by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986.

(8) For bulk distribution for surveys, marketing or solicitations if the department has implemented methods and procedures to ensure that:

(i) persons are provided an opportunity, in a clear, simple and conspicuous manner, to prohibit such uses by means of an option to opt out.

(ii) the information will be used, rented, or sold solely for bulk distribution for surveys, marketing, and solicitations, and that surveys, marketing, and solicitations will not be directed at those persons who have requested in a timely fashion that they not be directed at them. Such opportunity shall be provided at any time on request. In addition, the department shall provide posted conspicuous notices of the opportuni-

ties to make the selection at each of its offices at which it requests personal information. The department shall also request that the same be done by municipal agents of the department appointed pursuant to RSA 261:74-a.

(9) For use with respect to a request for a named person's motor vehicle records by a public utility, as defined in RSA 362:2 and over which the public utilities commission exercised jurisdiction on July 1, 1996, to perform its public service obligations.

(b)(1) A person who does not wish to have any personal information pertaining to such person made available as provided in subparagraphs V(a)(1)-(9) shall inform the department in writing; and request or have already requested a waiver, pursuant to RSA 263:40-a, I or II.

(2) Upon receipt of such request, the department shall not make the personal information available, nor shall the department make available a list of the persons who have made an election under subparagraph V(b). The department shall provide an opportunity, in a clear, simple and conspicuous manner, for a person to make the election permitted by subparagraph V(b) at any time on request. In addition, the division shall provide posted notice and the opportunity to make the selection at each of its offices at which it requests personal information.

VI.(a) An authorized recipient of personal information for a particular use under the provisions of subparagraph V(a) may not use the information, or make the information available, for any other use. The authorized recipient may sell or otherwise make the information available for the same use, provided that the information obtained for bulk distribution under subparagraph V(a)(8) may be sold or otherwise made available only in accordance with the terms of that subparagraph.

(b) An authorized recipient of personal information for a particular use under the provisions of subparagraph V(a) who sells or otherwise makes available the information shall be required by the department to:

(1) Maintain for a period of not less than 5 years records identifying each person who receives the information and the permitted purpose for which the information will be used; and

(2) Make such records available to the department upon request.

VII. A person shall have access to motor vehicle records relating to such person upon proof of identity. Motor vehicle records relating to a person may be made available to any other person upon proof, in such form and manner as the department prescribes, that the notarized, written consent of the person who is the subject of the record has been obtained.

VIII. Nothing in this section shall prohibit the department in its discretion from releasing to the public any person's name, age or motor vehicle offenses only.

IX. A person is guilty of a class B misdemeanor if such person knowingly discloses information from a department record to a person known by such person to be an unauthorized person; knowingly makes a false representation to obtain information from a department record; or knowingly uses such information for any use other than the use authorized by the department. In addition, any professional or business license issued by this state and held by such person may, upon conviction and at the discretion of the court, be revoked permanently or suspended. Each such unauthorized disclosure, unauthorized use or false representation shall be considered a separate offense.

X. The department and any person aggrieved by a violation of this section may bring a civil action under this section and, if successful, shall

be awarded the greater of actual damages or liquidated damages of \$2,500 for each violation; reasonable attorneys' fees and other litigation costs reasonably incurred; and such other equitable relief as the court determines to be appropriate.

XI. Neither the state nor its agencies or employees shall be civilly liable for any improper use or release of motor vehicle records to any person obtaining such records as provided in this section.

XII. The commissioner of safety shall adopt rules to implement this section. Notwithstanding any other provisions of law, such rules shall be exempt from the provisions of RSA 541-A.

SENATOR GORDON: HB 1508 requires the Department of Safety restrict access to certain information contained in drivers' records. This bill is viewed as a public safety issue. HB 1508 allows law enforcement officials, courts, and automobile insurance companies, all of whom have a demonstrated need of completed access to information. It also provides access to businesses such as marketers and bankers who use this information in their daily functions. Although an individual may opt out because of a desire to keep their personal information private. The Transportation Committee unanimously recommends HB 1508 as ought to pass as amended.

SENATOR PIGNATELLI: Senator Gordon, we heard testimony yesterday on another bill in Judiciary, that helps people that are tracing their adoptive parents and parents trying to trace their adopted children. We heard testimony that a lot of times they use the driving records as the number one source to be able to put natural parents in touch with children and children in touch with natural birth parents. I am wondering if whether these groups, the child and the family services and the Catholic charities and other groups that do this kind of work and also the division might have access to the records?

SENATOR GORDON: They will have access to the records with the exception of those persons who may desire to opt out of the program. That issue was not specifically addressed before the Transportation Committee, so for me to say that that was specifically addressed as an issue, I would have to say no. If in fact it were a problem, I am sure that the Transportation Committee would look at separate legislation to deal with that situation.

SENATOR PIGNATELLI: Thank you.

SENATOR LARSEN: The first question is, what is a process for opting out and how obvious is it to someone who wishes to opt out that they may do so?

SENATOR GORDON: The process for opting out, a person does not have to opt out, there is no requirement that they must opt out. There is no specific solicitation that they opt out, but a person who may desire to keep their information private, may apply to the Department of Safety and their information will be kept private. That information which is entitled to be kept private under the bill will be kept private.

SENATOR LARSEN: Is there notification that someone has the option to request opting out?

SENATOR GORDON: I am not specifically aware of any notification that would be given that that is the situation. It would provide a person . . . the particular situation which this addresses that you may be familiar with, is a person who may be stalked or may be concerned about do-

mestic violence, and under those circumstances, should they have a feeling that someone is obtaining their information through the drivers records, they would be able to keep their information private to prevent that from happening.

SENATOR LARSEN: Thanks.

Amendment adopted.

Ordered to third reading.

HB 1581, an act prohibiting the operation of a motorboat during license suspension or revocation for DWI and prohibiting the operation of a motor vehicle if a person has been convicted of boating while intoxicated. Transportation Committee. Vote: 6-0. Ought to pass with amendment. Senator Fraser for the committee.

5638L

Amendment to HB 1581

Amend RSA 270:48-a, VII as inserted by section 2 of the bill by replacing it with the following:

VII. Any person who is convicted of a violation of RSA 265:82 or RSA 265:82-a shall lose the privilege to operate a motorboat on the waters of this state for a period of one year from the date of conviction.

AMENDED ANALYSIS

This bill:

(1) Subjects any person convicted of BWI to the same penalties imposed on persons convicted of DWI, including license revocation.

(2) Prohibits any person convicted of DWI or aggravated DWI from operating a motorboat on the waters of this state for one year from the date of conviction.

SENATOR FRASER: Mr. President, HB 1581 creates the same reciprocity for boating while intoxicated DWI convictions in relations to operations of other forms of motorized transportation as it does for driving while intoxicated DWI convictions. Specifically, it disallows an individual convicted of BWI, from operating a boat for one year or an automobile for 90 days for a first offense. Similar statutes currently exist for DWI violations and the use of OHRVs. The Transportation Committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HJR 24, an act encouraging the Department of the Navy to name a vessel the U.S.S. New Hampshire. Transportation Committee. Vote: 6-0. Ought to pass. Senator Cohen for the committee.

SENATOR COHEN: HJR 24, a good number, urges the Department of the Navy to name a vessel the U.S.S. New Hampshire. As it has been nearly 75 years since the Navy commissioned a vessel bearing our state's name. The last vessel with this distinction was sold to scrap metal in 1923. Plans to commission another such vessel in the 40's were subsequently canceled. The committee believes that it would be a great honor and privilege if New Hampshire were to once again have a vessel named in its honor and unanimously recommends this bill as ought to pass. I look forward to seeing such a vessel at the Portsmouth Naval Shipyard sometime.

Adopted.

Ordered to third reading.

HB 1229-FN-A, an act allowing owners of privately owned airports to receive partial state reimbursement grants for local property taxes paid on certain areas of such airports and making an appropriation therefor. Ways and Means Committee. Vote: 4-0. Ought to pass with amendment. Senator Fraser for the committee.

5635L

Amendment to HB 1229-FN-A

Amend RSA 72:38, II as inserted by section 1 by replacing it with the following:

II. The owner of a privately owned airport, which is part of the statewide airport system and use of which is approved by the department of transportation, division of aeronautics, may after paying all local property taxes owed, apply to the director of the division of aeronautics for a state reimbursement grant in the amount of the portion of property taxes paid on the qualifying area of the airport. Reimbursement grants shall be paid from general funds appropriated to the division of aeronautics for each fiscal year, to the extent that such funds are available. Any application for a reimbursement grant shall be made within 6 months of the date on which the taxes were due and reimbursement shall not be made if application is made after this 6-month period. Measurements of the qualifying area of each airport shall be made by the division and shall remain in effect until the owner notifies the division of a change in property size. In this paragraph, "qualifying area" means non-revenue producing areas that are open to the public and required for airport operation.

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect July 1, 1996.

SENATOR FRASER: Mr. President, HB 1229 as amended will allow privately owned airports to apply for a partial reimbursement of local property taxes paid on so-called qualifying areas. The qualifying areas shall mean non revenue producing areas that are open to the public and are required for the airport operation, for example runways and taxiways. The sum of \$10,000 as appropriated to the Division of Aeronautics for the fiscal year ending June 30, 1997 for the purpose of making reimbursement grants under this section one under this bill. The Ways and Means Committee was unanimous in urging adoption of HB 1229.

SENATOR SHAHEEN: Senator Fraser, maybe you can give me the rationale for the committee in supporting this. I guess that the question that I have about this bill, is given the position that the legislature has taken relative to tax exempt status for a lot of other facilities in the state, particularly for state institutions like the University of New Hampshire, and like the state government. The position of this legislature has been to refuse to reimburse those local communities for the tax impact for those facilities on local communities. What I understand this bill to be doing, is exactly the same thing. Not just addressing the tax exempt status, but to be taking money out of the general fund to pay to these private airport owners for their tax impact?

SENATOR FRASER: That is exactly what the bill does, Senator.

SENATOR SHAHEEN: I don't understand what the rationale is to do that? It seems to me, that if we are going to provide any tax relief, it ought not to be to private owners of individual private airports, but it ought to be to taxpayers who are providing a service to the entire state on facili-

ties like the University of New Hampshire. I don't understand this rationale at all. It has nothing to do with the current campaign. So just to answer your question, since I have been fighting TAPE CHANGE . . . the issue here that we ought to address. So I would like to know the rationale, please?

SENATOR FRASER: Senator, what the bill does for those areas, so called non qualifying areas which are no revenue producing areas, but where the public is allowed to use for runway and taxiways, all that the bill does is to allow a tax deduction for those areas. The total amount of the appropriation is \$10,000 which will be prorated over the 38 of these airports. All that it does is to allow for reimbursement of those areas that are opened to the public. So far as your political speech is concerned, there was a number of issues that you have raised that I don't think have anything to do with this bill.

SENATOR SHAHEEN: But I think that they do, because I think that the issue here is what responsibility does the state have for facilities? What you are telling me in this bill, is that we have a responsibility to the owners of private airports who benefit significantly from those airports, but what this legislature has said in the past, is that we have no responsibility to the taxpayers in places like the town of Durham and the city of Concord and the town of Keene and the town of Plymouth, the city of Berlin. We have no responsibility to pay for any of those state facilities that are of benefit to everybody in the entire state, so I think this is a real change in policy and I am not going to support this. I would urge the Senate not to support it, because I don't think that just because we have some owners of private airports who are coming in requesting tax abatements, which is exactly what this is, this is a repayment of their property taxes, that we ought to be consistent. If we are going to say that this is something that the state cannot afford for its state facilities, then it is something that the state cannot afford for private airports. I would urge the Senate to vote against this legislation.

Recess.

Out of recess.

SENATOR F. KING: I am not familiar with this bill, I don't sit on this committee, but I believe that there is a reason for this bill becoming a law. I believe that it is a safety issue. Having flown in the past, there are an awful lot of private airports scattered around the state that are used by people other than the owners. As you fly, especially in the north country, it is nice to know that if you have a problem, that there is a place that you can get down to in a hurry. We spend a lot of money in this state for other types of transportation and I think, that a case could be made that this is just simply helping provide a safe place for people to land. Years ago, the state used to mow grass on private runways, they don't do that anymore. I think that for the amount of money involved, I think that we ought to give serious consideration to this and keep these airports open and in the hands of private individuals. I believe that it is a safety issue and I think that it is a good thing to do.

Recess.

Out of recess.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 1410-L, an act relative to special revenue funds. Ways and Means Committee. Vote: 4-0. Ought to pass with amendment. Senator Fraser for the committee.

5624L

Amendment to HB 1410-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to special revenue funds and relative to the payment of taxes in the town of North Hampton.

Amend the bill by replacing all after section 4 with the following:

5 Town of North Hampton; Payment of Taxes. Amend 1989, 93:1, I to read as follows:

I. Taxes assessed as of April 1, 1989, shall be assessed for a single 18-month accounting period running from January 1, 1989 to June 30, 1990. The town shall budget receipts and expenditures, and raise and appropriate revenues, on the basis of the single 18-month period. Taxes for the 18-month period shall be paid as follows: On June 1, 1989, a payment on the taxes for said period shall be due and payable, which will equal 1/2 the amount of taxes paid on the 1988 assessment. A second payment shall be due and payable on or before December 1, 1989, which shall be equal to 2/3 of the assessment made for April 1, 1989, less the amount of the payment due June 1, 1989. The balance of the taxes due on the then current assessment shall be due and payable on or before June 1, 1990. Taxes assessed as of April 1, 1990 and in all subsequent years shall be due and payable as follows: 1/2 on or before December 1, 1990, and 1/2 on or before June 1, 1991, ***except that taxes assessed as of April 1, 1996, shall be due and payable in a single payment on or before December 1, 1996, for the budget period July 1, 1996, to June 30, 1997.***

6 Repeal. 1989, 93, as amended by this act, relative to the collection of taxes in the town of North Hampton, is repealed.

7 Effective Date.

I. Section 6 of this act shall take effect January 1, 1997.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows towns to specify the portion of revenues which will be restricted from a particular source for expenditures for specific purposes.

This bill also amends 1989, 93:1, I relative to the payment of taxes to the town of North Hampton by authorizing a single payment due on December 1, 1996, for the budget period July 1, 1996, to June 30, 1997. Section 6 of this bill repeals 1989, 93, relative to collection of taxes in North Hampton, effective January 1, 1997, resulting in the application of the general statutes relating to collection of taxes to the town of North Hampton for the budget year beginning July 1, 1997, and subsequent years.

SENATOR FRASER: This bill amends current statutes to allow towns to restrict revenues from the specific source for specific expenditures. Such revenues and expenditures will be accounted for through a special revenue fund that is separate from the general fund. The Senate amendment to this bill authorizes the town of North Hampton to make a single tax payment, and it repeals a current statute relative to the collection of taxes in the town of North Hampton, resulting in the application of

general statutes related to taxes to the town of North Hampton. The Committee was unanimous in adopting the provisions of HB 1410, Mr. President.

Amendment adopted.

Ordered to third reading.

5531

Enrolled Bill Amendment to HB 1161

Amend RSA 655:42, III as inserted by section 5 of the bill by replacing line 2 with the following:

of the total votes cast at the previous state general election to

Amend RSA 655:81, XI as inserted by section 7 of the bill by replacing line 1 with the following:

XI. The deadline for any candidate to request a recount

Senator Currier moved adoption.

Adopted.

ANNOUNCEMENTS

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn; we adjourn until Tuesday, April 16, 1996 at 10:00 a.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 175-FN, an act relative to cooperative school districts.

HB 277, an act relative to the joint health council.

HB 1145-FN-L, an act authorizing municipalities to charge fees for certain administrative costs connected with excavation permits.

HB 1192, an act relative to the definition of developed waterfront property.

HB 1203-L, an act excluding pupils in home education programs from average daily membership in cooperative school district apportionment formulas, and deleting the date for notification for home education.

HB 1267, an act relative to retail licenses to sell pistols and revolvers.

HB 1286, an act relative to the suspension and expulsion of pupils.

HB 1289-L, an act relative to restrictions on waters used as a public water supply.

HB 1298, an act relative to driver's licenses and motor vehicle registrations for members of the armed forces and their spouses.

HB 1306, an act exempting certain outpatient facilities under the licensure law.

HB 1323, an act establishing a committee to study the issue of the use, and disposal of sludge or septage, and requiring notification to certain persons before the application of sludge or septage.

HB 1345, an act relative to the definition of "unemployment" for the purposes of unemployment compensation, the weekly benefit amount schedule, and designating a portion of the employer contribution to the unemployment compensation fund.

HB 1346, an act relative to notice of benefits charges, maximum weekly benefits, and penalties for failure to disclose a material fact under the unemployment compensation laws.

HB 1352, an act relative to insurance coverage during pregnancy and delivery and the postpartum period.

HB 1410-L, an act relative to special revenue funds.

HB 1455, an act relative to the permissible fireworks review committee.

HB 1459, an act relative to disclosure of information by insurers.

HB 1485, an act prohibiting insurance companies from mandating that automobile repairs or automobile glass replacements be made at specific repair or replacement shops.

HB 1508-FN, an act requiring the department of safety to keep drivers' records confidential except for certain reasons.

HB 1545, an act recognizing the validity of faxed search and arrest warrants and domestic violence orders.

HB 1581, an act prohibiting the operation of a motorboat during license suspension or revocation for DWI and prohibiting the operation of a motor vehicle if a person has been convicted of boating while intoxicated.

HB 1632, an act authorizing degree granting authority to the Manchester Institute of Arts and Sciences.

HJR 21, an act urging Congress to abolish the federal Department of Education.

HJR 24, an act encouraging the Department of the Navy to name a vessel the U.S.S. New Hampshire.

HCR 29, encouraging gun safety education programs for children.

Senator J. King moved that the Senate adjourn until Tuesday, April 16, 1996 at 10:00 a.m.

Adopted.

Adjournment.

April 16, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Bradley J. Bergfalk, the Senate Guest Chaplain.

I have a love and hate relationship with this season New Hampshireites affectionately call mud season. In order to make mud, there must be rain. And when it rains, my three children and dog seem to find every puddle, every mud hole, every place where they can bring a remnant of this mud into my house. This of course leads to complaints of freshly washed floors and dirty carpets. My kids continue to enjoy the mud as much as ever over the desperate cries of their mother to wipe their feet and take off their shoes before coming inside.

It occurs to me that this experience of mud is not unlike what a state senator must also endure in this chamber from time-to-time before you are given a glimpse of spring. Let me offer this word of hope to you for the mud that we all must face before the spring flowers can bloom. Where there is mud, there are kids, there are dogs, there are families, there are people who you represent, who whether they know it or not, rely upon your abilities to slog through the muddy issues and enable all of us to live richer and fuller lives. Thank you for what you are doing on our behalf.

God of grace and God of glory, soften our parched lives with the refreshing rains of Your spirit. Where there is mud, give us the foresight to see that on the other side of this season of mud are flowers waiting to bloom and new life waiting to be born in each of us. Amen

Senator Podles led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

NOTICE OF RECONSIDERATION

Senator Barnes moved reconsideration on **HB 1545**, an act recognizing the validity of faxed search and arrest warrants and domestic violence orders.

COMMITTEE REPORTS

HB 1288, an act relative to pesticide product registration and establishing a study committee of pesticide product registration policies. Environment Committee. Vote: 5-0. Ought to pass with amendment. Senator Johnson for the committee.

5724L

Amendment to HB 1288

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a study committee of pesticide product registration policies.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established; Duties. There is hereby established a committee to examine the issues relative to pesticide product registration in New Hampshire. The duties of the study committee shall include, but not be limited to, the following:

I. An examination of New Hampshire pesticide product registration policies in the context of regulatory liability issues.

II. An analysis of the fiscal and organizational impact on the department of agriculture, markets, and food relative to categorizing pesticide products in the registration process.

III. A comparison of pesticide product registration policies and fees regionally.

2 Membership. The committee shall consist of the following members:

I. Three house members appointed by the speaker of the house; one of whom shall be from the commerce, small business, consumer affairs, and economic development committee; one of whom shall be from the finance committee; and one of whom shall be from the environment and agriculture committee.

II. Three senate members appointed by the president of the senate.

3 Chairperson; Meetings; Mileage. The first meeting of the committee shall be called by the first-named representative, who shall serve as

chairperson of the committee. Members shall receive mileage at the legislative rate when attending to their duties on the committee.

4 Report. The committee shall report its findings and recommendations, including any proposed legislation, to the speaker of the house, the president of the senate, the house clerk, the senate clerk, the state library, and the governor, on or before November 1, 1996.

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a study committee on pesticide product registration.

SENATOR JOHNSON: HB 1288 creates a six-member legislative study committee which will examine issues relative to pesticide product registration within New Hampshire. The laws relative to product registration were changed dramatically and without a public hearing last year. The study committee will examine these issues to determine if further changes need to be made. The Environment Committee recommends HB 1288 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1314, an act reorganizing the department of environmental services. Environment Committee. Vote: 5-0. Ought to pass. Senator Russman for the committee.

Senator Russman moved to have **HB 1314**, an act reorganizing the department of environmental services, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1314, an act reorganizing the department of environmental services.

HB 1536-FN-A-L, an act relative to encouraging private purchase, clean-up, and restoration of environmentally contaminated sites and making a supplemental appropriation to the department of environmental services. Environment Committee. Vote: 5-0. Ought to pass with amendment. Senator Russman for the committee.

5721L

Amendment to HB 1536-FN-A-LOCAL

Amend RSA 147-E:15, IV as inserted by section 2 of the bill by replacing it with the following:

IV. The department may remove or modify use restrictions independently of the property owner by filing a release or modification of the restrictions in chain of title for the property. Any modification under this paragraph which would result in an increased restriction on the use of the property shall be based on a determination by the department that such a modification is necessary to protect human health or the environment. Before removing or modifying such use restrictions, the department shall consult with the department of health and human services and, at least 30 days prior to the filing of a release or modification of restriction, the department shall notify the owner and each mortgagee of record at their last known address by certified mail, return receipt requested, of the impending release or modification of the restrictions. For the purposes of this paragraph, any mortgagee whose mortgage was recorded in the office of the register of deeds at least 30 days prior to the

mailing of the notice shall be entitled to notice. The department shall comply with the public participation requirements of RSA 147-E:12, I. The property owner, the program participant if other than the owner, and any mortgagee entitled to notice who is aggrieved by a decision to remove or modify a use restriction may appeal such decision to the commissioner of the department, whose decision shall be final.

SENATOR RUSSMAN: This bill creates the Brownsfield program which will encourage the redevelopment of properties which have been environmentally contaminated as a result of pollution and they are often vacant. The bill provides a number of incentives for those considering participation in the program. So we would urge your support of the bill.

SENATOR LARSEN: I have a question on the appeal process for a property owner. It appears that the commission of the department has the final decision, and I am wondering what the thought process was for not allowing a further appeal?

SENATOR RUSSMAN: In all honesty, I am not certain of the answer to your question, except to say that the bill was extensively worked on and part of the problem was in getting this concept off the ground. Many times people were reluctant to go in because if they had a plan and they found additional pollution, then they would be stuck with the liability factor. This eliminates that for them so that the people will at least look at the concept if they come with a plan and they do the various studies and evaluations and assessments, they come up with a plan, the plan is approved by the DES and they go forward with the plan. If they find that there is additional pollution or what have you, they will not be stuck with that as a responsibility and financial burden. So it was the only way that we could come up with in terms of trying to make this a vital part and actually get some of these contaminated sites reused for a valuable commercial purpose.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 1572-L, an act recodifying and revising the solid waste laws. Environment Committee. Vote: 5-0. Ought to pass with amendment. Senator Johnson for the committee.

5719L

Amendment to HB 1572-LOCAL

Amend RSA 149-M:2, II as inserted by section 2 of the bill by replacing it with the following:

II. In exercising any and all powers conferred upon the division of waste management under this chapter, the division shall use and consider criteria relevant to the waste reduction goal and disposal hierarchy established in RSA 149-M:2 and 149-M:3. The division shall not take any action relative to the 40 percent weight reduction goal which causes the municipalities organized under RSA 53-A and 1986, 139 or RSA 53-B to violate or incur penalties under legal obligations existing on June 26, 1990.

Amend RSA 149-M:4, XI as inserted by section 2 of the bill by replacing it with the following:

XI. "Facility" means a location, system, or physical structure for the collection, separation, storage, transfer, processing, treatment, or disposal of solid waste.

Amend RSA 149-M:7, VI as inserted by section 2 of the bill by replacing it with the following:

VI. Certifying solid waste facility operators pursuant to RSA 149-M:6, XIII.

Amend RSA 149-M:9, II as inserted by section 2 of the bill by replacing it with the following:

II. It shall be unlawful to transport solid waste to, or to dispose of solid waste at, any facility other than an approved in-state facility.

Amend RSA 149-M:9, VII as inserted by section 2 of the bill by replacing it with the following:

VII. A permit issued by the division for a facility shall not eliminate the need to comply with all applicable local ordinances, codes, and regulations that are consistent with a district plan.

Amend RSA 149-M:11, IV(a) as inserted by section 2 of the bill by replacing it with the following:

(a) The concerns of the citizens and governing bodies of the host municipality, county, and district and other affected persons. For any proposed solid waste facility designed to accommodate in excess of 30 tons of solid waste per day, the division shall hold at least one public hearing in the host municipality, or in the case of an unincorporated town or unorganized place in the host county, in order to take testimony to identify those concerns. This public hearing requirement shall apply to a proposed solid waste facility designed exclusively to transfer solid waste.

Amend RSA 149-M:11, X as inserted by section 2 of the bill by replacing it with the following:

X. If the division determines that an applicant has demonstrated that it satisfies the criteria listed under paragraph III, it shall state that determination in any permit issued.

Amend RSA 149-M:48, I(b) as inserted by section 2 of the bill by replacing it with the following:

(b) Development of closure plans; or

SENATOR JOHNSON: HB 1572 codifies the solid waste laws and as a result of the solid waste recodification study committee. Outdated sections have been removed and areas that have been confusing in the past, will now be clarified. The Environment Committee urges passage of HB 1572 with the amendment.

Amendment adopted.

Ordered to third reading.

HB 1582, an act authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures. Environment Committee. Vote: 5-0. Ought to pass with amendment. Senator Rodeschin for the committee.

5720L

Amendment to HB 1582

Amend RSA 482-A:3, IV-a as inserted by section 4 by inserting after subparagraph (b) the following new subparagraph:

(c) Man-made agricultural ponds that have been legally constructed may be dredged without a permit from the wetlands board, or notification as provided under paragraph IV, when such work is necessary to preserve their usefulness. Work shall be part of a cooperative agreement with the county conservation district, and shall follow Best Management

Wetlands Practices for Agriculture published by the department of agriculture in July, 1993. Dredge may be accomplished by hand or machine provided the pond is not enlarged nor extended into other areas of wetlands board jurisdiction, and dredged spoils are deposited outside wetlands board jurisdiction.

Senator Rodeschin moved to have **HB 1582**, an act authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1582, an act authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures.

HCR 27, an act urging Congress to reauthorize the Safe Drinking Water Act. Environment Committee. Vote: 5-0. Ought to pass with amendment. Senator F. King for the committee.

5725L

Amendment to HCR 27

Amend the title of the resolution by replacing it with the following:

A RESOLUTION
urging Congress to reauthorize certain aspects
of the Safe Drinking Water Act.

Amend the resolution by replacing all after the title with the following:

Whereas, certain aspects of the Safe Drinking Water Act require municipalities to make costly changes to municipal water supply systems; and

Whereas, the municipalities pass these costs on to the ratepayers through water bills; and

Whereas, certain requirements under the current Safe Drinking Water Act affect water quality and result in higher costs to citizens and businesses; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring:

That the general court of New Hampshire hereby urges the United States Congress to pass S.1316, reauthorizing only certain aspects of the Safe Drinking Water Act which will attempt to make it less costly for municipalities to implement, while preserving water quality; and

That copies of this resolution, signed by the president of the senate and the speaker of the house, be forwarded by the house clerk to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the New Hampshire Congressional delegation.

AMENDED ANALYSIS

This house concurrent resolution urges Congress to reauthorize certain aspects of the Safe Drinking Water Act.

SENATOR F. KING: HCR 27 urges Congress to reexamine how the Safe Drinking Water Act is affecting the municipalities and the ratepayers of the state of New Hampshire. The resolution specifically encourages our Congressional delegation to support passage of S 1316. If for no other reason, we should pass this because this is a bill in our Congress that the Senate passed 99 - 0. S 1316 which will attempt to make the Safe Drinking Water Act less costly for cities and towns. The Environment Committee recommends HCR 27 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HJR 22, an act urging the New Hampshire congressional delegation to review the significant economic impact of the implementation of the Silvio O. Conte National Fish and Wildlife Refuge. Environment Committee. Vote: 4-0. Ought to pass with amendment. Senator F. King for the committee.

5728L

Amendment to HJR 22

Amend the resolution by replacing all after the title with the following:

Whereas, the Silvio O. Conte National Fish and Wildlife Refuge was authorized by the United States Congress on December 11, 1991; and

Whereas, the Conte Refuge study area encompasses an area of over 11,000 square miles, or 7.2 million acres, located in 4 states — New Hampshire, Vermont, Massachusetts and Connecticut along both sides of the Connecticut River from its origin in Pittsburg, New Hampshire to Long Island Sound; and

Whereas, the United States Fish and Wildlife Service which will administer this federal refuge has wide statutory enforcement responsibilities for various federal programs; and

Whereas, the Connecticut River and its riparian lands have unique historical, social and economic values for local communities which may be directly affected by decisions regarding the future development of the Conte Refuge; and

Whereas, the United States Fish and Wildlife Service has adopted its Action Plan in October of 1995 and is now seeking funding to implement this plan; and

Whereas, it is apparent that federal funding for all federal projects may be difficult to attain given the fiscal situation of the federal government; and

Whereas, the commissioner of the department of resources and economic development, the commissioner of the department of agriculture, markets, and food and the office of state planning are encouraged to provide information and to assist towns affected by the Action Plan; now, therefore, be it

Resolved by the Senate and the House of Representatives in General Court convened:

That the general court urges the New Hampshire congressional delegation to recognize that the Conte plan may have a significant impact on the forest and agricultural economy of the citizens of the Connecticut River Valley Region; and

That the general court further urges the New Hampshire congressional delegation to limit any fee acquisition of private property where any federal funds are to be utilized to the total acreage as specified in alterna-

tive "D" of the final Conte plan, to direct the Conte managers to work only with willing private landowners without resorting to eminent domain proceedings and to assure through federal legislation that any loss of property taxes resulting from federal action in affected communities will be paid in amounts consistent with existing payment-in-lieu of taxes formula; and

That copies of this resolution, signed by the president of the senate and the speaker of the house, be forwarded by the house clerk to the governor, the governor's councilors, and to each member of the New Hampshire Congressional delegation.

SENATOR F. KING: HJR 22 urges the congressional delegation to consider the economic impact that Silvio O. Conte National Fish and Wildlife Refuge may have on the Revelant areas of the state, particularly the North Country. It also urges consideration of some alternative methods of implementation. The amendment softens the language a bit and removes some of the issues that were most controversial at the public hearing. The Environment Committee recommends HJR 22 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 520-FN-L, an act relative to the regulation of rural electric cooperatives by the public utilities commission. Executive Departments and Administration Committee. Vote: 4-0-1 abstaining. Inexpedient to legislate. Senator Rodeschin for the committee.

SENATOR RODESCHIN: This bill was on the floor last week and was recommitted for further consideration. The committee heard further testimony from the PUC that there had been 174 complaints filed by the Coop's customers in the past year and the rates filed by the Coops, may at time favor residential customers over industrial customers. It also has questions of conflict with HB 1392. The committee felt that with the electric competition on the horizon, that the Coop customers would be better served if they remained under the authority of the PUC. It is always dangerous to recommit a bill to ED & A. The committee voted inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1392, an act establishing a legislative oversight committee on electric utility restructuring, requiring all electric utilities to submit rate restructuring plans, and establishing restructuring principles to be used by the public utilities commission in assessing and approving utility restructuring plans. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Keough for the committee.

5711L

Amendment to HB 1392

Amend the title of the bill by replacing it with the following:

AN ACT

restructuring the electric utility industry in New Hampshire
and establishing a legislative oversight committee.

Amend the bill by replacing sections 1-2 with the following:

1 Findings. The general court finds that:

I. New Hampshire has the highest average electric rates in the nation and such rates are unreasonably high. The general court also finds

that electric rates for most citizens may further increase during the remaining years of the Public Service Company of New Hampshire rate agreement and that there is a wide rate disparity in electric rates both within New Hampshire and as compared to the region. The general court finds that this combination of facts has a particularly adverse impact on New Hampshire citizens.

II. New Hampshire's extraordinarily high electric rates disadvantage all classes of customers: industries, small businesses, and captive residential and institutional ratepayers and do not reflect an efficient industry structure. The general court further finds that these high rates are causing businesses to consider relocating or expanding out of state and are a significant impediment to economic growth and new job creation in this state.

III. Restructuring of electric utilities to provide greater competition and more efficient regulation is a nationwide phenomenon and New Hampshire must aggressively pursue restructuring and increased customer choice in order to provide electric service at lower and more competitive rates.

IV. Monopoly utility regulation has historically substituted as a proxy for competition in the supply of electricity but recent changes in economic, market and technological forces and national energy policy have increased competition in the electric generation industry and with the introduction of retail customer choice of electricity suppliers as provided by this chapter, market forces can now play the principal role in organizing electricity supply for all customers instead of monopoly regulation.

V. It is in the best interests of all the citizens of New Hampshire that the general court, the executive branch, and the public utilities commission work together to establish a competitive market for retail access to electric power as soon as is practicable and that interim stranded cost recovery charges be determined and put into effect for each utility operating in this state to expedite and facilitate the transition for such a market.

2 New Chapter; Restructuring of the New Hampshire Electric Utility Industry. Amend RSA by inserting after chapter 374-E the following new chapter:

CHAPTER 374-F

ELECTRIC UTILITY RESTRUCTURING

374-F:1 Purpose.

I. The most compelling reason to restructure the New Hampshire electric utility industry is to reduce costs for all consumers of electricity by harnessing the power of competitive markets. The overall public policy goal of restructuring is to develop a more efficient industry structure and regulatory framework that results in a more productive economy by reducing costs to consumers while maintaining safe and reliable electric service with minimum adverse impacts on the environment. Increased customer choice and the development of competitive markets for wholesale and retail electricity services are key elements in a restructured industry that will require unbundling of prices and services and at least functional separation of centralized generation services from transmission and distribution services.

II. A transition to competitive markets for electricity is consistent with the directives of part II, article 83 of the New Hampshire constitution which reads in part: "Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder

or destroy it." Competitive markets should provide electricity suppliers with incentives to operate efficiently and cleanly, open markets for new and improved technologies, provide electricity buyers and sellers with appropriate price signals, and improve public confidence in the electric utility industry.

III. The following interdependent policy principles are intended to guide the New Hampshire public utilities commission in implementing a statewide electric utility industry restructuring plan, in establishing interim stranded cost recovery charges, in approving each utility's compliance filing, in streamlining administrative processes to make regulation more efficient, and in regulating a restructured electric utility industry. In addition, these interdependent principles are intended to guide the New Hampshire general court and the department of environmental services and other state agencies in promoting and regulating a restructured electric utility industry.

374-F:2 Definitions. In this chapter:

I. "Commission" means the public utilities commission.

II. "Electricity suppliers" means suppliers of electricity generation services and includes actual electricity generators and brokers, aggregators, and pools that arrange for the supply of electricity generation to meet retail customer demand, which may be municipal or county entities.

III. "FERC" means the Federal Energy Regulatory Commission.

IV. "Stranded costs" means costs, liabilities and investments, such as uneconomic assets, that electric utilities would reasonably expect to recover if the existing regulatory structure with retail rates for the bundled provision of electric service continued and that will not be recovered as a result of restructured industry regulation that allows retail choice of electricity suppliers, unless a specific mechanism for such cost recovery is provided. Stranded costs may only include costs of:

(a) Existing commitments or obligations incurred prior to the effective date of this chapter;

(b) Renegotiated commitments approved by the commission; and

(c) New mandated commitments approved by the commission.

374-F:3 Restructuring Policy Principles.

I. System Reliability. Reliable electricity service must be maintained while ensuring public health, safety, and quality of life.

II. Customer Choice. Allowing customers to choose among electricity suppliers will help ensure fully competitive and innovative markets. Customers should be able to choose among options such as levels of service reliability, real time pricing, and generation sources, including interconnected self generation. Customers should expect to be responsible for the consequences of their choices. The commission should ensure that customer confusion will be minimized and customers will be well informed about changes resulting from restructuring and increased customer choice.

III. Regulation and Unbundling of Services and Rates. When customer choice is introduced, services and rates should be unbundled to provide customers clear price information on the cost components of generation, transmission, distribution, and any other ancillary charges. Generation services should be subject to market competition and minimal economic regulation and at least functionally separated from transmission and distribution services which should remain regulated for the foreseeable future. However, distribution service companies should not be absolutely precluded from owning small scale distributed generation

resources as part of a strategy for minimizing transmission and distribution costs. Performance based or incentive regulation should be considered for transmission and distribution services. Upward revaluation of transmission and distribution assets is not a preferred mechanism as part of restructuring. Retail electricity suppliers who do not own transmission and distribution facilities, should, at a minimum, be registered with the commission.

IV. Open Access to Transmission and Distribution Facilities. Non-discriminatory open access to the electric system for wholesale and retail transactions should be promoted. Comparability should be assured for generators competing with affiliates of groups supplying transmission and distribution services. Companies providing transmission services should file at the FERC or with the commission, as appropriate, comparable service tariffs that provide open access for all competitors. The commission should monitor companies providing transmission or distribution services and take necessary measures to ensure that no supplier has an unfair advantage in offering and pricing such services.

V. Universal Service. Electric service is essential and should be available to all customers. A utility providing distribution services must have an obligation to connect all customers in its service territory to the distribution system. A restructured electric utility industry should provide adequate safeguards to assure universal service. Minimum residential customer service safeguards and protections should be maintained. Programs and mechanisms that enable residential customers with low incomes to manage and afford essential electricity requirements should be included as a part of industry restructuring.

VI. Benefits for All Consumers. Restructuring of the electric utility industry should be implemented in a manner that benefits all consumers equitably and does not benefit one customer class to the detriment of another. Costs should not be shifted unfairly among customers. A nonbypassable and competitively neutral system benefits charge applied to the use of the distribution system may be used to fund public benefits related to the provision of electricity. Such benefits, as approved by regulators, may include, but not necessarily be limited to, programs for low-income customers, energy efficiency programs, funding for the electric utility industry's share of PUC expenses pursuant to RSA 363-A, support for research and development, and investments in commercialization strategies for new and beneficial technologies.

VII. Full and Fair Competition. Choice for retail customers cannot exist without a range of viable suppliers. The rules that govern market activity should apply to all buyers and sellers in a fair and consistent manner in order to ensure a fully competitive market.

VIII. Environmental Improvement. Continued environmental protection and long term environmental sustainability should be encouraged. Increased competition in the electric industry should be implemented in a manner that supports and furthers the goals of environmental improvement. Over time, there should be more equitable treatment of old and new generation sources with regard to air pollution controls and costs. New Hampshire should encourage equitable and appropriate environmental regulation, based on comparable criteria, for all electricity generators, in and out of state, to reduce air pollution transported across state lines and to promote full, free, and fair competition. As generation becomes deregulated, innovative market driven approaches are preferred to regulatory controls to reduce adverse environmental impacts. Such market approaches may include valuing the costs of pollution and using pollution offset credits.

IX. Renewable Energy Resources. Increased future commitments to renewable energy resources should be consistent with the New Hampshire energy policy as set forth in RSA 378:37 and should be balanced against the impact on generation prices. Over the long term, increased use of cost-effective renewable energy technologies can have significant environmental, economic and security benefits. To encourage emerging technologies, restructuring should allow customers the possibility of choosing to pay a premium for electricity from renewable resources and reasonable opportunities to directly invest in and interconnect decentralized renewable electricity generating resources.

X. Energy Efficiency. Restructuring should be designed to reduce market barriers to investments in energy efficiency and provide incentives for appropriate demand side management and not reduce cost-effective customer conservation. Utility sponsored energy efficiency programs should target cost-effective opportunities that may otherwise be lost due to market barriers.

XI. Near Term Rate Relief. The goal of restructuring is to create competitive markets that are expected to produce lower prices for all customers than would have been paid under the current regulatory system. Given New Hampshire's higher than average regional prices for electricity, utilities, in the near term, should work to reduce rates for all customers. To the greatest extent practicable, rates should approach competitive regional electric rates. The state should recognize when state policies impose costs that conflict with this principle and should take efforts to mitigate those costs. The unique New Hampshire issues contributing to the highest prices in New England should be addressed during the transition, wherever possible.

XII. Recovery of Stranded Costs.

(a) It is the intent of the legislature to provide appropriate tools and reasonable guidance to the commission in order to assist it in addressing claims for stranded cost recovery and fulfilling its responsibility to determine rates which are *equitable*, appropriate, and balanced and in the public interest. In making its determinations, the commission shall balance the interests of ratepayers and utilities during and after the restructuring process. Nothing in this section is intended to provide any greater opportunity for stranded cost recovery than is available under applicable regulation or law on the effective date of this chapter.

(b) Utilities should be allowed to recover the net nonmitigatable stranded costs associated with required environmental mandates currently approved for cost recovery, and power acquisitions mandated by federal statutes or RSA 362-A.

(c) Utilities have had and continue to have an obligation to take all reasonable measures to mitigate stranded costs. Mitigation measures may include, but shall not be limited to:

- (1) Reduction of expenses.
- (2) Renegotiation of existing contracts.
- (3) Refinancing of existing debt.

(4) A reasonable amount of retirement, sale, or write-off of uneconomic or surplus assets, including regulatory assets not directly related to the provision of electricity service.

(d) Stranded costs should be determined on a net basis, should be verifiable, should not include transmission and distribution assets, and should be reconciled to actual electricity market conditions from time to time. Any recovery of stranded costs should be through a nonbypassable, nondiscriminatory, appropriately structured charge that is fair to all

customer classes, lawful, constitutional, limited in duration, consistent with the promotion of fully competitive markets and consistent with these principles. Entry and exit fees are not preferred recovery mechanisms. Charges to recover stranded costs should only apply to customers within a utility's retail service territory, except for such costs that have resulted from the provision of wholesale power to another utility. The charges should not apply to wheeling-through transactions.

XIII. Regionalism. New England Power Pool (NEPOOL) should be reformed and efforts to enhance competition and to complement industry restructuring on a regional basis should be encouraged. New Hampshire should work with other New England and northeastern states to accomplish the goals of restructuring. Working with other regional states, New Hampshire should assert maximum state authority over the entire electric industry restructuring process. While it is desirable to design and implement a restructured industry in concert with the other New England and northeastern states, New Hampshire should not unnecessarily delay its timetable. Any pool structure adopted for the restructured industry should not preclude bilateral contracts with pool and non-pool services and should not preclude ancillary pool services from being obtained from non-pool sources.

XIV. Administrative Processes. The commission should adapt its administrative processes to make regulation more efficient and to enable competitors to adapt to changes in the market in a timely manner. The market framework for competitive electric service should, to the extent possible, reduce reliance on administrative process. New Hampshire should move deliberately to replace traditional planning mechanisms with market driven choice as the means of supplying resource needs.

XV. Timetable. The commission should seek to implement full customer choice among electricity suppliers in the most expeditious manner possible. The pilot program established in 1995, 272 should be consistent with this pace and not delay implementation of statewide customer choice. The utilities should unbundle rates and services as soon as possible.

374-F:4 Implementation.

I. The commission is authorized to require the implementation of retail choice of electric suppliers for all customer classes of utilities providing retail electric service under its jurisdiction. The commission shall require such implementation no later than January 1, 1998, or at the earliest date determined to be in the public interest by the commission. However, in no event may the implementation be delayed beyond July 1, 1998, without prior legislative approval.

II. Upon the effective date of this chapter, the commission shall undertake a generic proceeding to develop a statewide industry restructuring plan in accordance with the above principles, and shall, after public hearings, issue a final order no later than February 28, 1997. In its order, the commission shall establish the interim stranded cost recovery charge for each electric utility as provided in paragraph VI.

III. The commission shall require all electric utilities subject to its jurisdiction to submit compliance filings, which shall include open access tariffs and such other information as the commission may require, no later than June 30, 1997. The commission shall investigate and shall approve utility compliance filings, subject to modification by the commission if necessary, after public hearing and subject to a finding that the filings are in the public interest and substantially consistent with the principles established in this chapter.

IV. Notwithstanding the provisions of paragraph I, no utility shall be required to implement its compliance filing resulting from the provisions of this chapter, until compliance filings representing at least 70 percent of retail electric sales (measured in kilowatt hours per year) have been or are being implemented.

V. The commission is authorized to allow utilities to collect a stranded cost recovery charge, subject to its determination in the context of a rate case proceeding that such charge is equitable, appropriate, and balanced, is in the public interest, and is substantially consistent with these interdependent principles. The burden of proof for any stranded cost recovery claim shall be borne by the utility making such claim.

VI.(a) In order to facilitate the rapid transition to full competition, the commission is authorized, in its generic restructuring order as provided in paragraph II, to set, without a formal rate case proceeding, an interim stranded cost recovery charge for each electric utility. Such interim stranded cost recovery charges shall be effective for 2 years from the implementation of utility compliance filings and shall be based on the commission's preliminary determination of an equitable, appropriate, and balanced measure of stranded cost recovery that takes into account the near term rate relief principle, is in the public interest and is substantially consistent with these interdependent principles. The commission shall also consider the potential for future rate impacts due to possible differences between interim stranded cost recovery charges and charges that may finally be approved for stranded cost recovery.

(b) Any utility may seek adjustment of the interim stranded cost recovery charge at any time based on severe financial hardship, as determined by the commission. The setting of an interim stranded cost recovery charge shall establish no legal, factual or policy precedent with respect to the final determination of stranded cost recovery by the commission in any subsequent administrative or judicial proceeding.

VII. The interim stranded cost recovery charge established for a utility as provided in paragraph VI may also be adjusted based upon the outcome of rate case proceedings to adjudicate claims for stranded cost recovery pursuant to paragraph V of this section. Any amounts approved by the commission for stranded cost recovery shall be net of amounts previously collected through interim stranded cost recovery charges.

VIII. The commission is authorized to order such charges and other service provisions and to take such other actions that are necessary to implement restructuring and that are substantially consistent with the principles established in this chapter. The commission is authorized to require that distribution and electricity supply services be provided by separate affiliates.

IX. An electricity supplier shall be eligible to compete, subject to necessary limitations established by the commission, for open access customers only if affiliated utilities file comparable open access transmission and distribution rates with the FERC or the commission, or both as appropriate, for all of their transmission facilities in New Hampshire and to the extent practicable, all of their distribution facilities in New Hampshire.

X. Nothing in this chapter shall be construed to prohibit the commission from otherwise exercising its lawful authority under title 34, in proceedings which relate to the introduction of competition in the retail electric utility industry including the retention of experts and consultants to assist the commission in its investigations and the assessment of such costs against utilities and any other parties to the proceedings, consistent with RSA 365:37 and RSA 365:38.

XI. Any administrative or adjudicative proceeding or public hearing relating to this chapter shall be subject to the provisions of RSA 541-A. 374-F:5 Oversight Committee; Establishment; Report; Meetings.

I. There is established a legislative oversight committee on electric utility restructuring consisting of 14 members as follows:

(a) Seven members of the house, at least 5 of whom shall be members of the science, technology and energy committee, or its successor, and at least 2 of whom shall be members of a minority party, appointed by the speaker of the house.

(b) Seven members of the senate, at least 2 of whom shall be members of the executive departments and administration committee, or its successor, and at least one of whom shall be a member of the minority party, appointed by the president of the senate.

II.(a) Committee members shall be appointed to an initial term expiring on December 4, 1996. Subsequent terms shall be for up to 2 years expiring on the first Wednesday of even numbered years. Members may succeed themselves.

(b) A chairperson shall be selected by a majority of the committee members.

III. The committee shall provide an annual report on or before November 1 to the governor, the speaker of the house, the senate president, the state library, and the public utilities commission on the status of electric utility restructuring.

IV. The committee shall meet quarterly or as often as is necessary to conduct its business.

V. Members shall receive mileage when attending to the duties of the committee.

374-F:6 Duties. The committee shall be responsible for the following:

I. Following up the work of the retail wheeling and restructuring study committee established in 1995, 272.

II. Working with the commission to assess the results of the pilot program allowing for the competitive retail purchase of electricity established in 1995, 272.

III. Working with the commission to develop any new legislation necessary to promote electric utility restructuring and retail choice of electricity suppliers and to propose changes to or recodification of existing statutes to be more consistent with the restructuring principles established in this chapter.

IV. Working with the commission and other agencies, where necessary, to implement this chapter and its restructuring principles.

SENATOR KEOUGH: The amendment as offered by the committee, like HB 1392 in the original House version, provides a framework for bringing competition to the electric utility industry. Competition is necessary and critical to reduce long-term rates, to expand customer choice and to bring about increased efficiency in operations and better use of capital resources and other resources. The two main components of the bill consist of a set of principles in a process by which the PUC will go about enacting on those principles. The principles are the product of the Retail Wheeling and Restructuring Committee's work over the summer. As you know nine members of this body participated in that work, along with nine members from the House. The principles address such critical issues as customer choice, system reliability, the unbundling of services and rates and open access in transmission, along with issues such as recovery of stranded costs, environmental improvement, and full and fair competition. The principles in this amendment are substantially un-

changed from the principles that were in the original House bill. The bill also directs and authorizes the Public Utilities Commission to take certain actions in order to bring competition about by January 1, 1998. It is in the definition of this process that the major differences exist between the committee amendment and the House version of the bill. Specifically, the committee amendment directs the PUC to initiate upon passage, a generic proceeding whereby a plan for competition in New Hampshire can be developed. It then directs the PUC to require compliance filings from the various utilities doing business in the state. What is different from this approach, is that the House version of the bill directed utilities to come up with their own restructuring plans. In Massachusetts, where that procedure was adopted, what the Massachusetts PUC discovered, is that utilities had dramatically different views about what a restructured industry ought to look like, and they have since chosen to go with the generic proceeding kind of process that we are adopting in this amendment. The second important difference between this amendment and the original House version of the bill, is that this amendment effectively delinks the implementation of competition from the ultimate resolution of stranded cost recovery; which we all know, is going to be a very complicated issue to resolve. But in delinking the implementation of competition, from the ultimate resolution of stranded cost recovery, it is the committee's belief, that we have substantially reduced an incentive to delay the process. That is important for consumers in New Hampshire who want and need competition to take place at the earliest practical date. HB 1392 reflects the hard work and input of an awful lot of people. Many of those people are in this body, and many of the people are in the House, various customer groups, various representatives of utilities, the BIA, the Business Roundtable. It is my belief that this amendment enjoys widespread support. I fully expect the House to concur with the amendment. Representative Bradley who is chairman of the House Science and Technology Committee, was a critical part of the drafting of this amendment. He has testified before our committee that he strongly supports the changes. The vote comes out of Executive Departments and Administration Committee with the unanimous ought to pass vote. I would urge all of my colleagues to vote in favor of this bill. Thank you.

SENATOR SHAHEEN: I would like to echo Senator Keough's applause for this bill. I think that this has been an excellent bipartisan effort, both in the House and in the Senate. Senator Keough and I have worked closely along with many of the rest of you with coming up with the amendment that we are going to be voting on today. I think that this is the legislature working at its very best in producing this bill. We know that the electricity rates that New Hampshire now has to pay are the highest in the nation. This is something that all of us have recognized that is an issue for our constituents. It is something that we can't allow petty partisan differences to keep us from coming to some kind of a resolution. I have to say, though, that in voting on the bill today, I have two reservations about it. The first, is that I argued in the groups working on the bill, that we should have a cap on the allowable interim stranded cost recovery charge. I think having seen what the PUC has done in the pilot program, that they have allowed too high a stranded cost recovery for the pilot program, and that if we are going to make competition work to lower rates for people in this state, we need to make sure that doesn't happen when we set the interim stranded cost recovery charge in this bill. So I believe that the legislature is putting the PUC, and particularly PSNH, on notice that we will not accept that high interim stranded cost

recovery charge. I am not going to bring forth an amendment on that today, however; because I think in the interest of getting a bill that we can all support, it is more important to support the bill as it exists than to be devisive on that particular issue. I also think that PSNH ought to be on notice. I single out PSNH, because as we all know, the real issue in New Hampshire is with PSNH, as the result of their bankruptcy and rate agreement. It is their rates that are higher than anyone elses. I believe, as we look to resolving the stranded cost issue, and getting to competition, that they should recognize that their shareholders bear some fair share of assuming the burden that has been given them, as the result of the rate agreement and their bankruptcy. Particularly, I think, one of the things that PSNH said when the rate agreement was approved, and that NU said when they bought PSNH, was that there were going to be synergies that were going to be saved to help pay for the cost of that acquisition premium, as the result of their merger. Well we haven't seen those savings yet, and I think that it is up to PSNH and NU now to produce those savings as we move to competition. My second concern, and this is one that was pointed out at the last work session on the bill, in providing for an economic hardship provision, that we don't undermine the Supreme Court's decision back in 1988. If you will allow me to read from this, that decision upheld the anti-cwip law against the claim, "that in an emergency rate proceeding, rates had to be increased if necessary to restore," the important word there is "restore," "the financial integrity of a utility." In 1988, in that petition of the PSNH, the Supreme Court held that the constitution did not so require. They cited "Pennsylvania Electric versus the Pennsylvania Public Utilities Commission," in a case and used this language specifically, "although Hope does guarantee," and "Hope" is the name of the case, "does guarantee a return proportionate to the risk, PSNH is wrong in contending that Hope and its progeny guaranteed to a utility, a rate which assures its financial integrity. Providing a return sufficient to maintain the financial integrity of a sound company is one thing, restoring the financial integrity is another." So I think, and I certainly felt, and I think that it is accurate to say that the committee felt, that the economic hardship provision that is in the current amendment, was not meant to undermine that Supreme Court decision back in 1988. Finally, I think that this bill is an excellent beginning. It is the first step on the road to competition, but I think that we need to remember that it is only a beginning, and that if we are going to get to competition that provides for meaningful reductions in rates, that we have to be vigilant and we have to be aggressive in making sure that the PUC, and that the legislature, that the executive branch of this government, and that all of the utilities and the consumers who are going to be affected, continue to work together to accomplish competition. Thank you.

SENATOR RUBENS: Senator Keough, first I would like to make a brief comment and then I have a few questions for you. As I have said before, I think that this legislature is probably more up to speed on this issue than perhaps any other legislature in the country, and on this particular bill, there has been more intelligent, informed debate and insight on how to restructure the industry than I have seen happening almost anywhere, so the job is good. My first question is relative to a section of the bill on page nine of the Senate Calendar. When you look at section 374-F:2 section IV, it is relative to the definition of "stranded costs." It is up in the definition section of stranded costs. The first question, is it the intent of the Executive Departments and Administration Committee,

which drafted this amendment that we see here and that we are voting on, to preclude the commission from exercising its authority to exclude from stranded costs, owned generation or purchased power, which under traditional rate making, are not used and useful?

SENATOR KEOUGH: Senator, I think that the spirit of the bill is clear that it is not the intent to preclude the commission from acting in a way that is currently in its authority; in fact, there is a provision in the bill that says that nothing is intended to allow a greater level of stranded cost recovery than is permitted under existing law. I think that would address your issue. If anything, the spirit of the bill is to give the PUC more discretion and more authority in dealing with issues in what is going to be a new business environment for utilities, and they ought not to be constrained by the rate making procedures and authority that existed during the old form of the industry.

SENATOR RUBENS: This is relative to a piece of the amendment on page 11, on 374-F:3, XII. It is under the issue of recovery of stranded costs. The question is as follows: Is it the intent of the committee to preclude the commission from exercising its authority to take into account the degree to which management discretion was involved in incurring a stranded cost for which recovery is sought when determining the extent to which such cost may be recoverable, including, but not limited to, environmental mandates and power acquisition costs referenced in the bill, in 374-F:3, XII, sub section B?

SENATOR KEOUGH: I would say that the answer is no. The bill speaks clearly that the burden of proof for any claim for stranded cost recovery, is upon the utility making that claim. I would think that part of that, is part of demonstrating that burden of proof, a utility would have to, number one, discuss the nature of the costs; and secondly, discuss the amount of the costs. Certainly in the deliberation for that, the PUC is at liberty to address the issue and to what extent was management discretion involved in the occurrence of the costs for the amount of it.

SENATOR RUBENS: This relates to page 12 of the amendment. It is 374-F:4, IX. "An electricity supplier shall be eligible to compete, subject to necessary limitations established by the commission, for open access customers only if affiliated utilities file comparable open access transmission and distribution rates with the FERC." The question is, is it the committee's intent to require only a requirement for filing of open access tariffs or is it the committee's intent to allow a company to compete before those tariffs have been approved by the commission and FERC as appropriate? In other words, would there be a compulsion for a company to allow competition in its area subject to only a filing as opposed to actual competition being underway?

SENATOR KEOUGH: I understand your question, Senator. I believe the intent of the committee is clear, that a utility ought not to go out and reap the benefits of competition unless it is prepared to also compete in its own territory. I would expect the PUC to read filing of comparable open access rates as essentially extending an offer, a bonafide offer to wheel power in its own service territory at a set rate.

SENATOR RUBENS: This is also on page 12 of the amendment. It is relative to 374-F: 4, X. The language grants the PUC authority with the words, "including the retention of experts and consultants" it grants the PUC authority to do that. I am wondering if it is the committee's intent

to limit the commission's authority under RSA 365:37 & 38 just to that activity or is it the committee's intent to allow the committee all of the discretion allowed under those RSAs?

SENATOR KEOUGH: I would say that it is certainly not the committee's intent to limit the discretion under those RSAs. I am glad that you asked that question, because I do believe that it is the belief of the committee, that in order for the PUC to fulfill its responsibility to the ratepayers of the state, it is going to have to aggressively exercise its authority and authorization to retain good counsel and to bring in consultants. This is not an area where we want the PUC to be reluctant to spend money to get good advice. Other interested parties who are going to participate in those proceedings, I can assure you, that they will have good advice, and we want the ratepayers of New Hampshire to have equal, if not better, advice. So I appreciate your asking that question.

SENATOR RUBENS: Senator Shaheen, consider this like dentistry - it will be over soon and I am ill equipped without Novocain. This relates to a matter on page nine of the amendment. This is RSA 374-F:2 IV. This is also under the issue of the definition of stranded costs. My question is, is it the intent of the committee to allow any greater level of stranded costs recovery than exists under traditional rate making today?

SENATOR SHAHEEN: As you know, there was much discussion about that issue and I think that all of us who worked on the legislation, yourself included, believe that the answer to that question is no. It is our intent not to allow any greater recovery at all. I would certainly think that given the language in the bill, there is an effort to address stranded costs in the context of a newly competitive industry and to look at that issue in a new light as the result of that.

Recess.

Out of recess.

SENATOR RUBENS: Senator Shaheen, this question is relative to page ten of the amendment. This would be 374-F:3, XII. Again, this is on the issue of recovery of stranded costs, subparagraph A. In the amendment the committee uses the language "to determine rates which are equitable, appropriate and balanced and in the public interest." My question is, in comparing that to the prior version of the bill, that is the immediately prior version of the bill, where the following language was used addressing claims for stranded costs recovery and fulfilling its responsibility to determine rates which are equitable, appropriate and balanced and provide a balanced measure of stranded costs recovery as determined by the commission, I am going to read that sentence again in the prior draft. "A structured transition that allows an equitable, appropriate and balanced measure of stranded cost recovery, as determined by the commission, is in the public interest." So the prior version stated, in essence, it was a finding by the drafters, that an equitable, appropriate and balanced measure of stranded cost recovery is in the public interest and the version in the draft here is that rates shall be determined "which are equitable, appropriate and balanced and in the public interest." My question is: did the committee, that is the ED & A Committee, intend that the public interest finding, would be an additional burden imposed upon the PUC in determining stranded cost recovery charges, in addition to the equitable, appropriate and balanced determination. Or was it a restatement of the prior version of the bill that an equitable, appropriate and balanced measure of stranded cost recovery charges is in the public interest?

SENATOR SHAHEEN: Senator Rubens, I can't speak for the committee, since I am not a member. I can only speak from the perspective . . .

SENATOR RUBENS: Those who negotiated and worked on the final version of the bill to which your name is attached.

SENATOR SHAHEEN: Of having worked on the committee, I think that what we were trying to do in changing that language was to provide further guidance to the commission as to what we felt was equitable, appropriate and balanced and in the public interest. You will note that we also added the language "the commission shall balance the interest of ratepayers and utilities during and after the restructuring process."

SENATOR RUBENS: Let me try to rephrase the question. Was it the intent of those who negotiated and created the final draft, which now appears here in the calendar, to add an additional burden to the PUC in determining what those rates shall be? That the equitable, appropriate and balanced determination also is determined to be in the public interest or is equitable, appropriate and balanced, already in the public interest?

SENATOR SHAHEEN: I guess, Senator Rubens, that I am not quite clear on what your question is, but I think that we were trying to say that in looking at rates and stranded costs, that they should be equitable, appropriate and balanced, and that in doing that, that would be in the public interest.

SENATOR RUBENS: This relates to page eleven of the amendment proposed by the committee. It relates to 374-F:4, I. The language in the amendment states "the commission is authorized to require the implementation of retail choice . . ." and as you know the commission in the Freedom case, found that the electric utility companies do not have exclusive franchises. In 374-F:4, I, is it the intent of the committee by granting the commission authority to require implementation of retail choice to imply that the commission was wrong in the Freedom case and did not have that authority in the past?

SENATOR SHAHEEN: Certainly not. I think that it is our position that the commission does have the authority to determine franchise areas.

SENATOR RUBENS: This is on page eleven, 374-F: 4, IV. ". . . until compliance filings representing at least 70 percent of retail electric sales (measured in kilowatt hours per year) have been or are being implemented." PSNH, by its own admission, currently sells about 75 percent of electricity supplied to customers in New Hampshire, which is greater than the 70 percent number. 374-F:4, IV provides "that no utility shall be required to implement its compliance filing until compliance filings representing at least 70 percent of present retail electric sales have been or are being implemented." Is this provision intended to put PSNH, in essence, in the driver's seat in granting them the veto power to control the timing of restructuring throughout the state in New Hampshire?

SENATOR SHAHEEN: It certainly is not, Senator Rubens. I believe that it is there to make sure that we are not requiring the other utilities in the state to go forward with competition when PSNH, the largest utility, has not gotten there yet.

SENATOR RUBENS: This relates to 374-F:4 Roman VI (b) on page twelve. This is the interim stranded cost recovery. I am going to quote from the amendment. "Any utility may seek adjustment of the interim stranded cost recovery charge at any time based on severe financial hard-

ship." I want to ask you a couple of questions to try to get into my mind what the committee meant, the ED & A Committee meant by. . . and those of you who worked on this amendment, what was meant by severe financial hardship. Could that be interpreted to mean the inability to pay dividends or maybe another test that I would use in my own mind, the inability to, for example, provide maintenance of the distribution lines throughout the state? Which would be a more accurate portrayal of what you meant by severe financial hardship?

SENATOR SHAHEEN: Senator Rubens, again, I cannot speak for the committee's thinking, but I can tell you the discussions that I was involved in. Our concern was the later issue that you mentioned. If it would prevent a utility from maintaining its physical plant, its lines, its ability to deliver power to customers, then that would be construed as severe financial hardship. As I pointed out earlier, this is the clause that we were trying to put in to be fair to the utilities so that we didn't put them in severe financial hardship. It was not meant to undermine, as I said earlier, the Supreme Court's decision back in 1988.

SENATOR COHEN: Senator Shaheen, as you know, Public Service Company has been running a series of newspaper ads and television ads, at no doubt, at ratepayers expense, raising the fears of reliability. Is there assurance in this bill that the public has no fear that they will have reliable electricity?

SENATOR SHAHEEN: Senator Cohen, I believe that is absolutely protected, and if you look on page nine of the amendment, the first principle of restructuring is system reliability. It says "that reliable electricity service must be maintained." I think that everyone who worked on this bill felt that was one of the most critical issues in moving toward competition.

SENATOR STAWASZ: Having served on the committee, I only have two concerns about the amended bill. I intend to support it, but I would like to, if I could, for the record, clarify a couple of those concerns. In the bill, we deliberately adopted a new phraseology, the terms "equitable, appropriate and balanced." We haven't defined them. We haven't said that this is what Black's Law Dictionary says they mean or what Webster's says that they mean. Departing from the current standard of just and reasonable, which is defined by the courts, we have given a new standard; hopefully, we won't end up in a court battle to define it. Hopefully the PUC can find that their order is just and reasonable because it provides an equitable, appropriate and balanced restructuring. I certainly hope so. That is one concern. The second is in defining competitive regional electric rates. I certainly hope that means the New England states and Quebec, with Hydro Quebec, and not Long Island Electric and not Quebec. I think that we need to define a regional rate, and we need to define what is a competitive rate. Is it a nickel less? Is it a penny less? Is it a reasonable slight amount more? Those are things that I am sure that PUC will do adequately in its generic finding, which should allow this process to start all players involved on a level playing field. I urge its adoption.

SENATOR F. KING: I just wanted to say that this probably will be the most important piece of legislation that we deal with this session. I want to recognize all of the work that the committee has done. I want to especially recognize the dialogue that has taken place here today, because it is my understanding that as this process goes forward in the future years, it is not only the bill that is part of the record, but the questions and

answers and the information that have been brought forward today, are all part of the record. I think that is very, very important because this is probably not the last time that the citizens of New Hampshire are going to have to deal with this issue. So I just want to thank everyone for their input and everyone for listening. I think that it is very important.

SENATOR RUBENS: Senator Shaheen, didn't the drafters of the amendment, actually this could be put to both Senator Shaheen and Senator Keough: didn't the drafters of this amendment specifically, and after very lengthy deliberations, choose not to use the "just and reasonable" standard for use in commission determination of stranded cost charges?

SENATOR SHAHEEN: Senator Rubens, we did. We did that as Senator Keough explained, because we felt that given that we are moving to a new environment in which to operate, that it was appropriate to look at an effort to come up with new language to describe that new environment. I have to say, however, that was a question that came up from a number of the utilities in this discussion. There is language in the bill that points out that in any rate proceedings that they will be based on what is already constitutional in the state, which does include the just and reasonable language. So while the committee chose, and the people working on the legislation chose, to try and describe the new environment in terms that we felt were more appropriate, we recognized that to some extent, that is still part of what will happen in any new environment.

Senator Blaisdell moved the question.

Adopted.

Amendment adopted unanimously.

Ordered to third reading.

SENATOR BARNES (RULE #44): I will be brief because that is my nickname, brief. I think that it is very appropriate having been the chairman of the committee of SB 168 to stand up and say a couple of words. Before you leave, Senator Rubens, I would like to state that this all started about a year ago, this whole process, right here in this chamber, and it was called SB 168 and the prime sponsor listed is the gentleman, Senator Rubens. I think that we all owe Senator Rubens a great deal of applause for what he has done for this bill. It has come out as a House Bill, but only because it started here in this chamber and became a study committee of 18 people. I want to start off by thanking Senator Delahunty for having me appointed as the chairman of the committee back a year ago. At the time, I wasn't quite sure what was going to happen, but I stand here today after this unanimous vote and say, thank God I was the chairman, because I am very proud to have been there. I am very proud of all of the Senators in this chamber, Senator Fred King was correct, in my opinion also, Senator Fred King, this is probably the most important piece of legislation that is coming out of this chamber this year. It doesn't affect a small group of constituents, it affects over a million people. We don't very often, as Senators, get a chance to have something happen like that. You know, we have staff, we have Mindy, we have Mike who worked on this with us, with the committee doing a lot of the grunt work that was very invaluable to us. We have people in the House. We have Jeb Bradley over there, we have Representative Below over there, we have Representative MacGillivray. I want to single out Senator Rodeschin's committee who did a tremendous job on this piece of legislation. I also want to finish up by saying a special thanks to Senators Keough and

Shaheen. You see both of their names on this amendment. I think that is very important that the two of them worked with many people to get it to where it is. If I had a hat on, I would take it off to both of them as well as everyone else. Thank you. I am sure that your constituents are going to say thank you. But I want to just close with one last comment. Please don't go out of this room thinking that your constituents will see lower rates when the governor signs this piece of legislation, because that is not true. We have one more bump, 5.5 percent bump on June 30, July 1. So if anyone goes out there and says that "boy we did it," well you have done it for the future, but you haven't "won it for next year, because your constituents are going to say to you, 'what in the world is this? You have been telling me that you did this great stuff and here is an increase in my bill?' " They are not going to understand. As long as you all understand, the first step has been taken and it is going to be terrific for the state of New Hampshire and the citizens here. I say thanks so much, I appreciate it.

SENATOR JOHNSON: Senator Barnes, don't you think that you may want to change your middle name from brief to grief, the way that the Red Sox are going?

SENATOR BARNES: Senator Johnson, if I were the Senate president, I would rule you out of order.

HB 1105, an act relative to hunting while intoxicated and implied consent to administer alcohol or controlled drug tests, and permitting evidence of the refusal of consent in certain legal proceedings. Fish and Game/Recreation Committee. Vote: 7-0. Ought to pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill creates a crime of aggravated hunting while intoxicated for accidents involving serious bodily injury. It clarifies the procedure to be used in testing for intoxication and permits evidence of a hunter's refusal to consent to testing as evidence in certain legal proceedings. The bill is a safety measure and will put some teeth into the Fish and Game Department. We need to get these dangerous hunters out of the woods. The committee voted ought to pass.

Adopted.

Ordered to third reading.

HB 1135-L, an act creating a penalty for the unauthorized posting of property. Fish and Game/Recreation Committee. Vote: 3-0. Inexpedient to legislate. Senator Wheeler for the committee.

SENATOR WHEELER: HB 1135 created a penalty for the unauthorized posting of property by a nonowner. The committee felt that enforcement of such a provision was impractical as an officer would have to know that the person was not an owner and catch them in the act of posting someone else's land; furthermore, there are other statutes on the books that deal with this, so the committee recommends that this be inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1228-FN, an act requiring the executive director of the department of fish and game to provide copies of fish and game statutes to the members of the house wildlife and marine resources committee and the sen-

ate fish and game/recreation committee. Fish and Game/Recreation Committee. Vote: 7-0. Ought to pass with amendment. Senator Roberge for the committee.

5670L

Amendment to HB 1228-FN

Amend the title of the bill by replacing it with the following:

AN ACT

requiring the executive director of the department of fish and game to provide copies of fish and game statutes, if available as a single publication from a commercial publisher, without charge only upon request of the members of the house wildlife and marine resources committee and the senate fish and game/recreation committee.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Duty to Provide Copies of Fish and Game Statutes. Amend RSA 206 by inserting after section 23-a the following new section:

206:23-b Fish and Game Statutes. The executive director of the department of fish and game shall annually provide copies of current fish and game statutes, if available as a single publication from a commercial publisher, without charge only upon request of the members of the house wildlife and marine resources committee and the senate fish and game/recreation committee.

2 Effective Date. This act shall take effect 60 days after its passage.

ANALYSIS

This bill requires the executive director of the department of fish and game to provide copies of fish and game statutes, if available as a single publication from a commercial publisher, without charge only upon request of the members of the house wildlife and marine resources committee and the senate fish and game/recreation committee.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill requires the executive director of the Fish and Game Department to make copies of the Fish and Game Statutes available to the members of the House Wildlife and Marine Resources Committee and the Senate Fish and Game/Recreation Committee if a member of the committee so requests. The committee voted ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1371, an act relative to the authority of the director of forests and lands to enter certain private lands. Fish and Game/Recreation Committee. Vote: 5-1. Inexpedient to legislate. Senator Rodeschin for the committee.

SENATOR RODESCHIN: This bill would have established procedures to be followed by the director of the Division of Forest and Lands if the director found it to be necessary to enter upon posted lands. The committee found that the bill gave too much leeway to the division and di-

minished a land owner's right to privacy. The division has sufficient powers, in emergency situations, to do their jobs. The committee voted inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1621, an act authorizing the executive director of the fish and game department to conduct wildlife population reductions. Fish and Game/Recreation Committee. Vote: 3-0. Ought to pass with amendment. Senator Rodeschin for the committee.

5706L

Amendment to HB 1621

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing the executive director of the fish and game department to conduct wildlife population reductions on Long Island in the town of Moultonboro.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Wildlife Population Reductions; Long Island. Amend RSA 206 by inserting after section 23-a the following new section:

206:23-b Wildlife Population Reductions; Long Island, Town of Moultonboro.

I. The executive director, with the approval of the commission, may conduct wildlife population reductions and initiate management actions necessary to protect against disease, genetic, ecological, environmental, health, safety, or welfare risks to persons or wildlife. The executive director may exercise such authority only on Long Island, town of Moultonboro; and to the species, sex, age, number and timing of the population reduction or management action.

II. The executive director may adopt rules, pursuant to RSA 541-A, necessary to conduct an orderly and efficient wildlife population reduction or management action, including, but not limited to:

(a) The method and manner of taking.

(b) Participation in the reduction or management action.

(c) Inspection, possession, procreation, sale, transportation, or releases of wildlife.

(d) Permits, including application or permit fees for residents or nonresidents, to undertake wildlife reduction or management actions under terms and conditions established in the permit issued by the executive director.

III. The executive director may enter into agreements with individuals, partnerships, and corporations, whether resident or nonresident, for the purpose of implementing population reductions or management actions as specified in this section.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill authorizes the executive director of the fish and game department to conduct wildlife population reductions on Long Island, town of Moultonboro.

SENATOR RODESCHIN: This bill authorizes the executive director of the Fish and Game Department to conduct wildlife population reductions. The amendment specifically authorizes the director to reduce populations

on Long Island in the town of Moultonboro. If there is an over population in another part of the state, you must come back to the legislature. The director is the person who is in the best position to assess when and how such a program should be carried out. The bill does that and the committee voted ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1630-FN-L, an act establishing a new property leasing program for land in the Lake Francis impoundment area and relative to the New Hampshire heritage trail. Fish and Game/Recreation Committee. Vote: 3-0. Ought to pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill establishes a new property leasing program for the land in the Lake Francis impoundment area and relative to the New Hampshire heritage Trail. It requires the Water Resources Council to assist the director of Parks to develop a segment of New Hampshire Heritage Trail across from the Lake Francis property. The property leasing program from the land at Lake Francis was scheduled to end early next century, because of this, the current leaseholders had stopped maintaining the cabins on the leased lands. The municipalities around Lake Francis were going to lose the property tax revenue. This bill authorizes a new leasing program with a goal of continuing the economic vitality of the region, in other words, it is the Senator Fred King bill.

Adopted.

Ordered to third reading.

HB 1541, an act relative to employee leasing companies and temporary help services. Insurance Committee. Vote: 6-0. Ought to pass with amendment. Senator Danaïs for the committee.

5679L

Amendment to HB 1541

Amend RSA 277-B:6, I as inserted by section 3 of the bill by replacing it with the following:

I. Every application for issuance or renewal of a license as an employee leasing company shall be accompanied by, **at a minimum**, [a] **an audited** financial statement prepared by an independent certified public accountant in accordance with generally accepted accounting principles within 6 months prior to the date of application or renewal and such statement shall show a minimum net worth of [\$50,000] **\$100,000**.

SENATOR DANAÏS: This bill defines employee leasing arrangement. The bill also provides that no unlicensed leasing company shall have workmens' compensation coverage. When a leasing company tries to obtain a license or a new one, they must submit at least an audited financial statement and the statement must show a minimum net worth of \$100,000 which was raised from \$50,000. The bill also adds provisions by which the commissioner can suspend or revoke a license. Also, employee leasing companies must notify the commissioner when they are going to cancel workmens' compensation policies. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 331-L, an act establishing one elderly exemption to replace the standard elderly exemption and the current optional elderly exemption laws. Public Affairs Committee. Vote: 5-0. Ought to pass with amendment. Senator Larsen for the committee.

5726L

Amendment to HB 331-LOCAL

Amend RSA 72:39-a, I(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Owns net assets not in excess of the amount determined by the city or town for purposes of RSA 72:39-b, excluding the value of the person's actual residence and the land upon which it is located up to the greater of 2 acres or the minimum single family residential lot size specified in the local zoning ordinance. The amount determined by the city or town shall not be less than \$35,000. "Net assets" means the value of all assets, tangible and intangible minus the value of any good faith encumbrances. "Residence" means the housing unit, and related structures such as an unattached garage or woodshed, which is the person's principal home, and which the person in good faith regards as home to the exclusion of any other places where the person may temporarily live. "Residence" shall exclude attached dwelling units and unattached structures used or intended for commercial or other nonresidential purposes.

Amend RSA 72:39-b as inserted by section 2 of the bill by deleting paragraph III.

Amend the bill by replacing sections 7-9 with the following:

7 Forms for Application. RSA 72:33, I is repealed and reenacted to read as follows:

I. No person shall be entitled to the exemptions, deferrals or tax credits provided by RSA 72:28, 29-a, 30, 31, 32, 35, 36-a, 37, 37-a, 37-b, 38-a, 39-b, 62, 66 and 70 unless the person has filed with the selectmen or assessors, by March 1 following the date of notice of tax under RSA 72:1-d, a permanent application therefor, signed under penalty of perjury, on a form approved and provided by the commissioner of revenue administration, showing that the applicant is the true and lawful owner of the property on which the exemption, deferral, or tax credit is claimed and that the applicant was duly qualified upon April 1 of the year in which the exemption, deferral, or tax credit is first claimed, or, in the case of financial qualifications, that the applicant is duly qualified at the time of application. The form shall include the following and such other information deemed necessary by the commissioner.

(a) Instructions on completing and filing the form, including an explanation of the grounds for requesting tax exemptions, deferrals, and credits pursuant to RSA 72.

(b) Sections for information concerning the applicant, the property for which the relief is sought, and other properties owned by the person applying.

(c) A section explaining the appeal procedure and stating the appeal deadline in the event the municipality denies the tax relief request in whole or in part.

(d) A place for the applicant's signature with a certification by the person applying that the application has a good faith basis and the facts in the application are true.

SENATOR LARSEN: HB 331 folds the four separate elderly exemption laws which we currently have, into one concise exemption which would be used throughout the state. Qualifying income levels are raised to

\$13,004. for a single person and \$20,400 for married couples because social security would no longer be deducted from income. These increases are based on the average social security received per individual per couple. The new exemption will become effective 60 days after passage, but the remaining sections of the bill relative to the exemption adoption procedures are not effective until January 1998. This allows the municipalities a chance to review the changes. The Public Affairs Committee unanimously recommends HB 331 as ought to pass as amended. It is one of those rare bills when you see fewer laws, where we are removing laws rather than adding laws.

Amendment adopted.

Ordered to third reading.

HB 420, an act relative to habitability in manufactured housing parks. Public Affairs Committee. Vote: 4-0. Ought to pass with amendment. Senator Larsen for the committee.

5731L

Amendment to HB 420

Amend the bill by replacing all after the enacting clause with the following:

1 Intent. The general court finds that, as a matter of public policy, owners and operators of manufactured housing parks have a responsibility to be sure that tenants have safe water and roads and sewer and electric services. It is the intent of the general court that any omission in this act to specifically regulate the provision of electric services shall not be construed to change the owner's or operator's responsibility to provide such services.

2 New Section; General Applicability. Amend RSA 205-A by inserting after section 13-b the following new section:

205-A:13-c General Applicability.

I. A manufactured housing park owner shall assure that the roads are passable and common areas within the manufactured housing park are safe and fit for the purpose of which they were reasonably intended.

II. Cooperative housing parks shall be subject to the provisions of RSA 205-A.

III. In the rental of any lot in a manufactured housing park there shall be an implied warranty of habitability whereby the park owner warrants, at the inception and throughout the tenancy, that, if provided by the owner:

(a) There is a functioning water supply system which shall provide safe drinking water in accordance with the applicable standards established by the department of environmental services in quantities to meet ordinary household needs of the tenant.

(b) There is a safely functioning sewage disposal system, which shall be in accordance with the applicable standards established by the department of environmental services, available to the tenant household.

IV. The housing standards set forth under RSA 48-A shall also apply to manufactured housing parks.

3 Effective Date. This act shall take effect 45 days after its passage.

SENATOR LARSEN: HB 420 brings together the current statutes regarding manufactured housing park owners responsibility to maintain the park so that it is habitable for its tenants. The amendment adds to the bill, the intent of the legislature which is to ensure that tenants have

safe water, roads, sewer and electric services. It also clarifies the language in the bill. The language in the original bill was more ambiguous. The committee recommends HB 420 as ought to pass as amended.

Senator Wheeler moved to have **HB 420**, an act relative to habitability in manufactured housing parks, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 420, an act relative to habitability in manufactured housing parks.

HB 1113, an act relative to the order of names on state primary election ballots. Public Affairs Committee. Vote: 6-0. Ought to pass with amendment. Senator Rubens for the committee.

5710L

Amendment to HB 1113

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the order of names on state primary election ballots
and to political advertising.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 9:

6 Political Advertising; Signature Requirements Changed. Amend RSA 664:14, I to read as follows:

I. All political advertising shall be signed at *the beginning* or the end with the names and addresses of the candidate, his fiscal agent, or the name and address of the chairman or the treasurer of a political committee, or the name and address of a natural person, according to whether a candidate, political committee, or natural person is responsible for it. Said signature shall clearly designate the name of the candidate, party or political committee by or on whose behalf the same is published or broadcast.

7 Political Advertising; Signature Requirement Changed. Amend RSA 664:14, V to read as follows:

V. Notwithstanding any other provision of this section, buttons or any printed or written political advertising which is attached to or displayed on any motor vehicle need not be signed [at the end].

8 Requirements for Identification of Political Advertising Changed. Amend RSA 664:16 to read as follows:

664:16 Identification of Political Advertising. Political advertising printed in newspapers, periodicals or billboards shall be marked at the beginning *or at the end* thereof "Political Advertising." [Persons or business organizations operating a radio or television station or public address system shall broadcast political advertising only after announcing it as such.] Rates for advertising shall be filed, no later than 30 days prior to the deadline for filing for office for an election, with the secretary of state by each person or business organization publishing a newspaper or periodical, operating a radio or television station, or selling billboard space. Such schedule shall be open to public inspection, and such schedules may be amended. However, rates in such amendments shall not take effect until 5 days after they are filed with the secretary of state. No person or business organization publishing a newspaper or periodical, operating a radio or television station, or selling billboard space shall charge an advertising rate to any candidate, political committee, party or cause that is different from that charged to any other candidate, political committee, party or cause.

AMENDED ANALYSIS

Section 3 of this bill provides that, on state primary election ballots, the names of candidates for the office of state representative shall be arranged in the alphabetical order of their surnames.

Sections 6-8 of this bill:

I. Change the signature and identification requirements for political advertising.

II. Modify political advertising requirements including the removal of the requirement that persons or organizations operating a radio or television station or public address system shall broadcast political advertising only after announcing it as such.

The remainder of this bill amends certain RSA provisions making them gender neutral and consistent with other sections amended by the bill in accordance with RSA 17-A:6 relative to gender neutral drafting.

SENATOR RUBENS: HB 1113 places the names of candidates for the office of state representatives only, in alphabetical order of their surnames on the primary election ballot. This language was in effect prior to the 1994 election cycle, the system which took effect in 1994 has proven to be very costly to the state's municipalities. The amendment modifies the political advertising requirements, in addition, and was supported by the secretary of state's office. The Public Affairs Committee recommends this bill as ought to pass as amended unanimously.

Amendment adopted.

Ordered to third reading.

HB 1132, an act reinstating the charter of Polar Graphics, Inc. Vote: 5-0. Ought to pass with amendment. Senator Rubens for the committee.

5714L

Amendment to HB 1132

Amend the title of the bill by replacing it with the following:

AN ACT

reinstating the corporate charters of Polar Graphics, Inc.
and Capitol Alarm Systems, Inc and amending the
charter of Saint-Gaudens Memorial.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 4:

2 Reinstatement of Charter of Capitol Alarm Systems, Inc. The charter of Capitol Alarm Systems, Inc. of Boscawen, New Hampshire, incorporated on September 3, 1981, was forfeited on September 3, 1991, under former RSA 293-A:95, I(a) now codified at RSA 293-A:14.21. Upon payment of any fees in arrears, a reinstatement fee at \$135 under RSA 293-A:1.22(a)(7), the filing of any annual reports required by law, the filing of an affidavit with the secretary of state stating that there are no lawsuits pending against the corporation, and obtaining a certificate of good standing from the department of revenue administration, Capitol Alarm Systems, Inc., shall be reinstated for all purposes as a New Hampshire corporation. This reinstatement shall be retroactive to September 3, 1991.

3 Saint-Gaudens Memorial; Authority to Hold Property; Board of Trustees. Amend 1919, 260:3 and 260:4 to read as follows:

Sect. 3 [Said] *The* corporation may receive by gift, grant, device or otherwise, and may hold, possess and enjoy for the purposes of [said] *the*

corporation, real and personal estate [to an amount producing an annual net income not to exceed fifty thousand dollars] *without limitation as to the amount of annual net income to be produced.*

Sect. 4 The business, property and affairs of [said] *the* corporation shall be managed and controlled by aboard of not less than [seven] **7** nor more than [twenty-five] **30** trustees [to be determined in the first instance by the incorporators at their first meeting, and thereafter from time to time by the trustees. The] *elected from time to time by the trustees together with the* governor of New Hampshire and the president of Dartmouth College for the time being[, and such officials of societies of fine arts as the incorporators at their first meeting shall determine,] *who* shall be ex-officio members of the board of trustees. [Such ex-officio memberships may be increased from time to time by the trustees provided such ex-officio memberships shall not exceed ten in number.] The board of trustees shall have power [to add to its number within the limits above set forth,] to fill vacancies[, and may make all proper regulations and [by-laws] *bylaws* not inconsistent with the purposes of [this act] **1919, 260 as amended** or the laws of New Hampshire. At any duly called meeting of the board of trustees the members present, provided they be not less than [five] **5**, shall constitute a quorum for the transaction of business. All the powers of the corporation shall be vested in the board of trustees, but they may provide for the admission of associate members under such [by-laws] *bylaws*, rules or regulations as they may deem expedient.

AMENDED ANALYSIS

This bill reinstates the corporate charter of Polar Graphics, Inc. and Capitol Alarm Systems, Inc. and amends the charter of Saint-Gaudens Memorial.

SENATOR RUBENS: HB 1132 reinstates the charters of Polar Graphics, Inc. and Capitol Alarm Systems, Inc. which both expired in 1991 and were inadvertently nonrenewed. HB 1132 also amends the charter of Saint-Gaudens Memorial by removing the restriction on endowments the memorial may receive and by increasing the size of the board of trustees. The committee, again, unanimously urges ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1139-L, an act relative to the powers of the town of Sunapee concerning governance of the Sunapee water and sewer system. Public Affairs Committee. Vote: 5-0. Ought to pass with amendment. Senator Rubens for the committee.

5732L

Amendment to HB 1139-LOCAL

Amend the bill by replacing all after the enacting clause with the following:

1 Restructuring Governance of the Water and Sewer System. The town of Sunapee is authorized, by vote at an annual meeting, to adopt revisions of the provisions of 1901, 197, as amended by 1973, 465, for the governance of the town water and sewer system as the town may see fit. Any article proposing such revision may be submitted by the selectmen or in accordance with RSA 39:2. The selectmen shall hold a public hearing on such proposal more than 10 days prior to the meeting at which it is to be presented. The vote shall be decided by a 3/5 majority of those

present and voting. Upon adoption, such provisions shall not be subject to further revision until at least the second annual meeting following their adoption.

2 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows the town of Sunapee to vote to revise provisions for the governance of the town water and sewer system.

SENATOR RUBENS: HB 1139 lets the town of Sunapee vote on whether to revise provisions for the governance of the town water and sewer system. A unique situation was created for Sunapee's water and sewer by chapter law in 1901. These provisions need to be updated in order to help the town satisfy its requirements and the Safe Drinking Water Act. The committee unanimously urges HB 1139 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1168-L, an act relative to maintaining local control over certain franchises and allowing municipalities to coordinate franchising authorities. Public Affairs Committee. Vote: 6-0. Ought to pass. Senator Rubens for the committee.

SENATOR RUBENS: In light of increasing competition, there is some ambiguity as to how local franchise authorities would be treated. HB 1168 tries to clarify this by redefining franchise authority to make municipalities the franchising authorities for cable television systems. The second portion of the bill clarifies that the municipalities can join together to form a multi-town franchise. The Public Affairs Committee unanimously urges passage of HB 1168.

Adopted.

Ordered to third reading.

HB 1189-FN, an act changing the fee charged by towns and cities for uncollectible checks. Public Affairs Committee. Vote: 5-0. Ought to pass. Senator Larsen for the committee.

SENATOR LARSEN: HB 1189 increases the fees that towns may charge for bad checks from \$10 to \$25. This will allow the municipalities to collect the same amount as state agencies currently collect for checks that are returned to them. HB 1189 was a request from the New Hampshire Tax Collector's Association. The Public Affairs Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

Senator Wheeler in opposition to HB 1189-FN.

HB 1265, an act relative to payment of utilities by tenants of manufactured housing parks. Public Affairs Committee. Vote: 5-0. Ought to pass. Senator Larsen for the committee.

SENATOR LARSEN: HB 1265 clarifies the responsibility of manufactured housing park owners, operators and tenants in situations where the housing park owner or operator, shifts the responsibility of monthly utility payments to the park tenants. Specifically, this bill makes the park owner responsible for any cost incurred during the conversion process. The Public Affairs Committee urges this bill as ought to pass.

Senator Wheeler moved to have **HB 1265**, an act relative to payment of utilities by tenants of manufactured housing parks, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1265, an act relative to payment of utilities by tenants of manufactured housing parks.

HB 1335-FN-A-L, an act relative to the New Hampshire Main Street Center and local Main Street programs and making an appropriation therefor. Public Affairs Committee. Vote: 3-0. Ought to pass. Senator Larsen for the committee.

SENATOR LARSEN: HB 1335 enables New Hampshire's municipalities to participate in the main street program which is a downtown revitalization program currently being used in 37 states throughout the country. The main street program has been recognized as one of the most successful tools for rebuilding downtown portions of communities. Seventeen communities in this state have already shown interest in financial commitment to this program. HB 1335 gives legislative approval for the program to exist in New Hampshire. The Public Affairs Committee urges HB 1335 as ought to pass.

Adopted.

Ordered to third reading.

HB 1379, an act to require financial filings by county and local party committees. Public Affairs Committee. Vote: 3-3. Ought to pass with amendment. Senator Rubens for the committee.

5733L

Amendment to HB 1379

Amend the bill by replacing all after the enacting clause with the following:

1 Reporting by Political Committees. Amend RSA 664:6, I to read as follows:

I. Any political committee, *including the political committee of a political party*, whose receipts or expenditures in support of a candidate, measure, or political party exceed \$500 except, for the purposes of this paragraph only, [the political committee of a political party or] the political committee of a candidate, shall file with the secretary of state an itemized statement, signed by its chairman and treasurer showing each of its receipts exceeding \$25 with the full name and home post office address of the contributor in alphabetical order and the amount of the contribution, the date it was received, and the aggregate total for each election for each contributor of over \$100. *The receipts and expenditures of the county, city, ward, or town committee of a political party shall be reported by that committee.* The statement shall be filed not later than the Wednesday 12 weeks immediately preceding a primary election, before 5 o'clock in the afternoon, and shall cover the period from the day of the committee registration up to and including the Monday before the statement is due. All receipts of \$25 or under shall appear on the statements as unitemized receipts. Any listing which exceeds an individual's aggregate total of [\$100] **\$25** for each election shall be accompanied by the contributor's occupation including official job title, the name of the contributor's employer, and the city or town of the contributor's principal place of business, if any. The statement shall also

show each committee expenditure with the full name and city or town of persons, corporations, committees, or to whomever paid or to be paid, the date paid, and the election for which the expenditure was made, with the specific nature and amount of each expenditure since the date of the registration.

2 Reporting by Candidates. Amend RSA 664:7 to read as follows:

664:7 Reporting by Candidates. Each candidate at the primary or general election for governor, councilor, state senator, representative to general court, or county officer, who has *receipts or* expenditures exceeding [\$500] **\$250**, shall file statements before and after an election in like manner and detail as prescribed in RSA 664:6, II, II-a, III, IV, and V, excepting, however, the expenditures of political committees of the party to which the candidate belongs in elections other than primaries.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

The bill extends receipt and expenditure reporting requirements to include all the political committees of a political party.

SENATOR RUBENS: The committee report on this was a three - three split vote and by precedence, the ought to pass motion takes precedence, but this was a split vote in the committee. HB 1379 attempts to tighten loopholes in the filing laws by requiring all local and county political parties to file receipts and expenditures with the secretary of state's office if they raise and expend more than \$500 for a particular candidate or election. This promotes good government and full disclosure of all campaign expenses. The Public Affairs Committee, again, recommends this as ought to pass, but there is a split vote three - three.

Senator Stawasz moved to have **HB 1379**, an act to require financial filings by county and local party committees, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1379, an act to require financial filings by county and local party committees.

HB 1436, relative to pecuniary benefits of real estate transactions and loans of directors and officers of charitable trusts and establishing a committee to study the laws relative to charitable trusts. Public Affairs Committee. Vote: 5-0. Ought to pass with amendment. Senator Rubens for the committee.

5715L

Amendment to HB 1436

Amend the title of the bill by replacing it with the following:

AN ACT

regulating certain transactions between charitable trusts and directors, officers, and trustees of such charitable trusts.

Amend the bill by replacing all after the enacting clause with the following:

1 Only Charitable Service Allowal. RSA 7:19, II is repealed and reenacted to read as follows:

II. Directors, officers, and trustees of charitable trusts shall serve on the governing boards of such charitable trusts only for the charitable

purposes of the organization. If such directors, officers or trustees are serving for any other expressed or intended reasons, they shall not serve on the governing board of the organization.

2 New Section; Pecuniary Benefit Transactions. Amend RSA 7 by inserting after section 19 the following new section:

7:19-a Regulation of Certain Transactions Involving Directors, Officers, and Trustees of Charitable Trusts.

I. Definitions. In this section:

(a) "Director, officer, or trustee" means a director, officer, or trustee of a charitable trust.

(b) "Financial interest" means an interest in a transaction exceeding \$500 in value for any officer, director, or trustee, on an annual aggregate basis. An "indirect" financial interest arises where the transaction involves a person or entity of which a director, officer, or trustee, or a member of the immediate family of a director, officer, or trustee, is a proprietor, partner, employee, or officer.

(c) "Pecuniary benefit transaction" means a transaction with a charitable trust in which a director, officer, or trustee of the charitable trust has a financial interest, direct or indirect. However, reasonable compensation for services rendered and expenses incurred in connection with official duties of a director, officer, or trustee shall not be considered a pecuniary benefit transaction.

II. A pecuniary benefit transaction shall be permissible if it is in the best interest of the charitable trust and if all of the following conditions are met:

(a) The transaction is for goods or services purchased or benefits provided in the ordinary course of the business of the charitable trust, for the actual or reasonable value of the goods or services or for a discounted value, and the transaction is fair to the charitable trust.

(b) The transaction is approved by a 2/3 majority of the governing board of the charitable trust:

(1) After full and fair disclosure of the material facts of the transaction to the governing board and after notice and full discussion of the transaction by the board;

(2) Without participation, voting, or presence of any director, officer, or trustee with a financial interest in the transaction except as the board may require to answer questions regarding the transaction; and

(3) A record of the action on the matter is made and recorded in the minutes of the governing board.

(c) The charitable trust maintains a list disclosing each and every pecuniary benefit transaction, including the names of those to whom the benefit accrued and the amount of the benefit, and keeps such list available for inspection by members of the governing board and contributors to the charitable trust. The total dollar amount of pecuniary benefit transactions shall also be reported to the director of charitable trusts each year as part of the charitable trust's annual report required under RSA 7:28.

III. Every director, officer, or trustee, or member of the immediate family of such director, officer, or trustee, who engages in a pecuniary benefit transaction with a charitable trust shall provide copies of all contracts, payment records, vouchers, other financial records or other financial documents at the request of the director of charitable trusts in accordance with RSA 7:24. All documents so provided may be disclosed to the public for inspection and copying, subject to applicable confidentiality laws.

IV. Every charitable trust shall adopt policies pertaining to pecuniary benefit transactions and conflicts of interest.

V. No charitable trust shall lend money or property to its directors, officers, or trustees. Any director, officer, or trustee who assents to or participates in the making of any such loan shall be jointly and severally liable to the charitable trust for the amount of such loan until it is repaid.

VI. No charitable trust shall sell, lease for a term of greater than 5 years, purchase, or convey any real estate or interest in real estate to or from an officer, director, or trustee without the prior approval of the probate court after a finding that the sale or lease is fair to the charitable trust. However, this paragraph shall not apply to a bona fide gift of an interest in real estate to a charitable trust by a director, officer, or trustee of the charitable trust.

VII. A pecuniary benefit transaction undertaken in violation of this section is voidable. The director of charitable trust may investigate complaints regarding pecuniary benefit transactions and if, after an investigation pursuant to RSA 7:24, the director determines that a pecuniary benefit transaction is in violation of this section, the director may institute appropriate proceedings under RSA 7:28-f to enforce these provisions.

VIII. Any member of the governing board of a charitable trust shall have standing to petition pursuant to RSA 491:22 for a declaratory judgment that one or more pecuniary benefit transactions of the charitable trust are void.

IX. The provisions of this section shall not apply to transactions between a charitable trust and its incorporators, members, or other contributors who are not also directors, officers, or trustees of the charitable trust, provided that such transactions are fair to the charitable trust.

3 New Section; Size and Membership of Governing Boards. Amend RSA 292 by inserting after section 6 the following new section:

292:6-a Board of Directors of Charitable Nonprofit Corporations. In the interest of encouraging diversity of discussion, connection with the public, and public confidence, the board of directors of a charitable nonprofit corporation shall have at least 5 voting members, who are not of the same immediate family or related by blood or marriage. No employee of a charitable nonprofit corporation shall hold the position of chairperson or presiding officer. This section shall not apply to those nonprofit corporations in existence on the effective date of this section, the governing boards of which are inconsistent with the provisions of this section. The provisions of this section may be waived with the approval of the director of charitable trusts after application for such waiver.

4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill regulates certain transactions between charitable trusts and their directors, officers, and trustees.

SENATOR RUBENS: HB 1436 is in response to HB 1519 passed in 1994 which disallowed directors of charitable trusts from obtaining any pecuniary benefits beyond travel reimbursement and reasonable salaries or stipends. This was done in an effort to prevent misuse of one's position for personal financial gains. It appears in retrospect that this earlier

measure went too far and has created some severe consequences in the nonprofit community. HB 1436 as amended takes a positive approach to pecuniary benefits, in that benefits will be allowed if they are truly in the best interests of the charitable trusts, and if they are completely disclosed to the attorney generals's office so that they can review them for possible abuses. The Public Affairs Committee recommends HB 1436 as ought to pass as amended. The vote was unanimous.

Amendment adopted.

Ordered to third reading.

HB 1489, an act prohibiting gender-based price discrimination. Public Affairs Committee. Vote: 3-2. Inexpedient to legislate. Senator Stawasz for the committee.

SENATOR STAWASZ: The Public Affairs Committee voted against HB 1489 because it could lead to significant problems for businesses depending upon an individual's interpretation of the law. The bill prohibits businesses from discriminating on the basis of gender when providing identical services to both men and women unless an adequate explanation is given. The interpretation of adequate explanation is guaranteed to vary from person to person; therefore, could create a tremendous burden for business owners. Since both of the major examples of dry cleaners and haircuts already have competition in the market place on the basis of equal pricing, based on gender, it would be unwarranted government intrusion in the business community. We move inexpedient to legislate.

SENATOR LARSEN: You will notice that this bill did not go through the committee unanimously. We heard, those of us who are of the female gender know, that there is gender-based price discrimination in the communities. Right now if I take a cotton shirt to a dry cleaner or to a cleaner, if I put it in my husband's bag, I get his rate, if I take it in on my own, I have to pay a different price. This bill would not require businesses to change their manufacturing machinery, however, it would require businesses to at least if they are going to have gender-based price discrimination, explain why they have this discrimination? Currently the way that the bill is written, a business could post a reason saying that they have to charge a higher price to women because it cost more for us to hand press a shirt and your shirt does not fit in our machine. This bill makes it very difficult because what it says is that this gender-based price discrimination doesn't exist. It does exist. Those of us who go out seeking services recognize that it exists. It exists not only in the world of cleaning, but it also exists in the world of alterations, it even exists in the instances when women go to get their hair cut. If they want a blunt cut, the same as a man, we pay a different price. This would have prohibited it. It would have required that if there is a reason for a price discrimination, that that reason be posted. This bill made sense and I urge you to vote no on the inexpedient to legislate motion.

Committee report of inexpedient to legislate is adopted.

HB 1538-FN, an act restricting rent increases by manufactured housing park owners and operators after notice of eviction has been issued to tenants because of condemnation or change of use of the manufactured housing park. Public Affairs Committee. Vote: 5-0. Ought to pass with amendment. Senator Rubens for the committee.

5564L

Amendment to HB 1538-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to manufactured housing park tenants after notice
of termination of tenancy has been issued to tenants
because of condemnation or change of use of
the manufactured housing park.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect 45 days after its passage.

AMENDED ANALYSIS

This bill restricts rent increases by manufactured housing park owners and operators after notice of termination of tenancy for condemnation or change of use of the manufactured housing park has been issued to the tenants.

SENATOR RUBENS: HB 1538 prohibits a manufactured housing park owner who has sold his property, and has given the tenants notice that the land use will change, from raising rent during the 18-month period that tenants are given to find a new location for their homes. The amendment simply changes the effective date of the bill. The Public Affairs Committee unanimously urges passage of HB 1538 with amendment.

Senator Wheeler moved to have **HB 1538-FN**, an act restricting rent increases by manufactured housing park owners and operators after notice of eviction has been issued to tenants because of condemnation or change of use of the manufactured housing park, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1538-FN, an act restricting rent increases by manufactured housing park owners and operators after notice of eviction has been issued to tenants because of condemnation or change of use of the manufactured housing park.

HB 306, an act establishing a family resource council to address the efficient delivery of services to children and families. Public Institutions, Health and Human Services Committee. Vote: 5-2. Inexpedient to legislate. Senator Wheeler for the committee.

SENATOR WHEELER: The majority of the Health and Human Services Committee did not see the necessity of establishing such a council in statute. Certainly there exist many different organizations which were not created statutorily, and they are effectively coordinating services and programs to foster a more healthy community. Furthermore, this work is being done under HB 32 and we do not need this legislation. The majority of the committee would urge inexpedient to legislate.

SENATOR LARSEN: You will note here, too, that the vote was not unanimous. We heard, in the committee, that a family resource council would be useful for tying together the various services that the state offers to families. We have councils of many sorts; however, we do not have adequate coordination of the issues in the state which relate to families. This bill would have coordinated the state's efforts towards keeping families together. It made a lot of sense. I did not support the inexpedient to legislate motion and I urge you to not support it either.

Committee report of inexpedient to legislate is adopted.

HB 1264, an act restricting the sale of certain items. Public Institutions, Health and Human Services Committee. Vote: 6-1. Ought to pass with amendment. Senator Lovejoy for the committee.

5692L

Amendment to HB 1264

Amend RSA 358-Q:1 as inserted by section 1 of the bill by inserting after paragraph I the following and renumbering the original paragraph II to read as III:

II. Any other product being offered for sale beyond the expiration date shall be clearly marked indicating that the sale expiration date has passed and should be noted by the buyer.

Senator Lovejoy moved to have **HB 1264**, an act restricting the sale of certain items, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1264, an act restricting the sale of certain items.

Recess.

Senator Barnes in the Chair.

HB 1322, an act relative to the adoption of the New Hampshire hospital master plan of 1994. Public Institutions, Health and Human Services Committee. Vote: 6-0. Ought to pass. Senator Larsen for the committee.

SENATOR LARSEN: Some of you that were here before remember that you spent good state money to do a New Hampshire Hospital Master Plan. HB 1322 will place that master plan for the New Hampshire Hospital campus as established under the laws of 1992, under the Long Range Capital Planning and Utilization Committee established under a separate RSA. The Long-Range Capital Planning Committee will continue to study the physical needs and the financial resources of the state, including the space needs for state agencies and review space presently being leased or rented by state agencies. Additionally, the committee will oversee the implementation on the master plan dated October 31, 1994 and they will review and make recommendations for improvements based on that master plan which we spent good state money to do. The Health and Human Services Committee thought that this bill made sense to continue to review how the state uses the state hospital grounds, and to follow the guidelines of the master plan. The Health and Human Services Committee recommends this bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1628, an act relative to methadone maintenance therapy. Public Institutions, Health and Human Services Committee. Vote: 5-2. Inexpedient to legislate. Senator Podles for the committee.

SENATOR PODLES: HB 1628 would allow methadone maintenance therapy as a treatment for heroin addiction over a period of time beyond the minimum necessary to resolve physiological addiction to heroin. The committee felt that this legislation would be sending the wrong message to the citizens of New Hampshire. We have established many different programs in the fight against drugs and drug addiction. The committee feels that this program may be taking a step back. The committee recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

RECONSIDERATION

Senator Russman having voted with the prevailing side, moved reconsideration on **HB 1572-L**, an act recodifying and revising the solid waste laws, whereby we ordered it to third reading.

Adopted.

HB 1572-L, an act recodifying and revising the solid waste laws.

SENATOR RUSSMAN: We would also ask that you support the motion of recommending HB 1572 to the Environment Committee as we need to do a little more work. The question of in-state, being able to haul trash out-of-state and there may be some language in there that limits the in-state only, so we would like to be able to work on that this afternoon.

Senator Russman moved to recommit.

Adopted.

HB 1572 is recommitted.

TAKEN OFF THE TABLE

Senator Russman moved to have **HB 1314**, an act reorganizing the department of environmental services, taken off the table.

Adopted.

HB 1314, an act reorganizing the department of environmental services.

Question is on the motion of ought to pass.

Senator Russman offered a floor amendment.

5737L

Floor Amendment to HB 1314

Amend the bill by replacing section 113 with the following:
113 Department Rules.

I. Existing rules relative to the division of water supply and pollution control and the division of water resources shall continue in full force and effect until such rules, pursuant to RSA 541-A, expire or are amended or repealed by the commissioner of environmental services.

II. Existing rules of the water supply and pollution control council shall continue in full force and effect as rules of the council until such rules, pursuant to RSA 541-A, expire or are amended or repealed by the council.

III. Notwithstanding 1994, 412:52 and RSA 541-A:8, the existing rules of the department, and any amendments, may continue to be organized under the department's existing rulemaking subtitles. Any rules adopted which are relative to new statutory programs or responsibilities enacted after the effective date of this act, may be organized under the existing rulemaking subtitles. This exception shall expire when the drafting and procedure manual for rules, pursuant to RSA 541-A:8, is adopted. All department rulemaking proceedings after that date shall comply with RSA 541-A and the drafting and procedure manual for rules.

SENATOR RUSSMAN: The amendment that is being passed out which . . . what happened was, in the reorganization plan, all of the rules might have been done away with, so this and the interim part of it will allow the rules to remain in effect that are presently there. Legislative Services brought it to my attention, and we need to be sure that whatever rules are out there are allowed to remain while the reorganization is in the transitional state.

Floor amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Russman moved to have **HB 1582**, an act authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures, taken off the table.

Adopted.

HB 1582, an act authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures.

Question is on ought to pass.

Senator Russman offered a floor amendment.

5741L

Floor Amendment to HB 1582

Amend RSA 482-A:3, IV-a(b) as inserted by section 4 by replacing it with the following:

(b) Man-made agricultural ponds that have been legally constructed may be dredged without a permit from the wetlands board, or notification as provided under paragraph IV, when such work is necessary to preserve their usefulness. Work shall be part of a cooperative agreement with the county conservation district, and shall follow Best Management Wetlands Practices for Agriculture published by the department of agriculture in July, 1993. Dredge may be accomplished by hand or machine provided the pond is not enlarged nor extended into other areas of wetlands board jurisdiction, and dredged spoils are deposited outside wetlands board jurisdiction.

SENATOR RUSSMAN: There is an amendment being offered that the committee neglected to put into the calendar, which they voted on. It would require towns and agencies to have a permit before they go forward, although they can do it on a once a year basis which makes it easier for them. This would not give them any special treatment over what the ordinary citizen would have.

Floor amendment adopted.**Ordered to third reading.****TAKEN OFF THE TABLE**

Senator Pignatelli moved to have **HB 1558-FN-L**, an act establishing a study committee on taxation of real estate which does not receive municipal services, taken off the table.

Recess.**Out of recess.****Adopted.**

HB 1558-FN-L, an act establishing a study committee on taxation of real estate which does not receive municipal services.

Question is on the committee report of inexpedient to legislate.

SUBSTITUTE MOTION

Senator Pignatelli moved to **substitute ought to pass for inexpedient to legislate.**

SENATOR PIGNATELLI: This bill establishes a study committee, that is all that it does, to study the issue of taxation on real estate which does not receive municipal services. What we are talking about here, is condominiums. Condominiums for most people in the state, if you live in a condominium, you pay the same real estate tax as someone who doesn't live in a condominium, but your municipal services are not the same as everyone else who lives in the community. This would establish a study committee on this whole issue, and we would decide, as a state, whether we want to take a position on this or not. At least bring it out and expose this issue to the state. It is very important to people who live in condominiums, and very important to the people in my district. So I hope that you will look favorably upon this bill and pass it. I have volunteered to be a member of the study committee.

Adopted.

Ordered to third reading.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1143, increasing the civil penalties for violations of certain labor statutes and authorizing the commissioner of labor to seek injunctions against noncomplying employers or owners.

HB 1170, prohibiting a sworn law enforcement officer from holding a private detective's license.

HB 1172, relative to bridge regulations.

HB 1233, establishing a 55 mile per hour speed limit for OHRV's traveling on the frozen surface of Turtle Pond, also known as Turtle Town Pond, in the city of Concord and establishing joint responsibility between the city of Concord and the state of New Hampshire for the enforcement of such speed limit.

HB 1238, relative to the use of the official ballot for changing the manner in which planning board members are selected in towns.

HB 1268, relative to the method for repealing a zoning ordinance and defining a person aggrieved in an appeal from a decision on motion for rehearing.

HB 1282, allowing certain liquor licensees to conduct beverage, liquor, or wine tastings on licensed premises.

HB 1339, to study the feasibility of an alternative highway for Route 3 in Franklin.

HB 1375, relative to penalties under the workers' compensation law.

HB 1403, relative to the charges for driving a motor vehicle or operating off highway recreational vehicles under the influence of drugs or liquor, or driving with excess alcohol concentration.

HB 1463, giving municipalities bonding authority for economic development purposes in certain situations.

SB 657, extending the deadline of the employee assistance program study committee.

HJR 25, urging the Federal Energy Regulatory Commission, the United States Environmental Protection Agency, the Council on Environmental Quality, the United States Congress, and the President of the United States to implement increased competition in the electric utility industry in a manner that furthers environmental improvement and promotes full and fair competition including equitable and appropriate environmental regulation for all electricity generators.

Senator Currier moved adoption.

Adopted.

ANNOUNCEMENTS RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn; we adjourn until Wednesday, April 17, 1996 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 331-L, an act establishing one elderly exemption to replace the standard elderly exemption and the current optional elderly exemption laws.

HB 1105, an act relative to hunting while intoxicated and implied consent to administer alcohol or controlled drug tests, and permitting evidence of the refusal of consent in certain legal proceedings.

HB 1113, an act relative to the order of names on state primary election ballots.

HB 1132, an act reinstating the charter of Polar Graphics, Inc.

HB 1139-L, an act relative to the powers of the town of Sunapee concerning governance of the Sunapee water and sewer system.

HB 1168-L, an act relative to maintaining local control over certain franchises and allowing municipalities to coordinate franchising authorities.

HB 1189-FN, an act changing the fee charged by towns and cities for uncollectible checks.

HB 1228-FN, an act requiring the executive director of the department of fish and game to provide copies of fish and game statutes to the members of the house wildlife and marine resources committee and the senate fish and game/recreation committee.

HB 1288, an act relative to pesticide product registration and establishing a study committee of pesticide product registration policies.

HB 1314, an act reorganizing the department of environmental services.

HB 1322, an act relative to the adoption of the New Hampshire hospital master plan of 1994.

HB 1335-FN-A-L, an act relative to the New Hampshire Main Street Center and local Main Street programs and making an appropriation therefor.

HB 1392, an act establishing a legislative oversight committee on electric utility restructuring, requiring all electric utilities to submit rate restructuring plans, and establishing restructuring principles to be used by the public utilities commission in assessing and approving utility restructuring plans.

HB 1436, relative to pecuniary benefits of real estate transactions and loans of directors and officers of charitable trusts and establishing a committee to study the laws relative to charitable trusts.

HB 1541, an act relative to employee leasing companies and temporary help services.

HB 1558-FN-L, an act establishing a study committee on taxation of real estate which does not receive municipal services.

HB 1582, an act authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures.

HB 1621, an act authorizing the executive director of the fish and game department to conduct wildlife population reductions.

HB 1630-FN-L, an act establishing a new property leasing program for land in the Lake Francis impoundment area and relative to the New Hampshire heritage trail.

HJR 22, an act urging the New Hampshire congressional delegation to review the significant economic impact of the implementation of the Silvio O. Conte National Fish and Wildlife Refuge.

HCR 27, an act urging Congress to reauthorize the Safe Drinking Water Act.

Senator J. King moved that the Senate now adjourn until Wednesday, April 17, 1996 at 1:00 p.m.

Adopted.

Adjournment.

April 17, 1996

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

I spent several hours this morning with two nurses in Manchester whose job it was to drain all the blood out of my body - every drop. Luckily, they didn't take it all at one time, and in the end, I got most of it back. The process is called pheresis and its purpose is to take the platelet portion of your blood so someone who really needs it can use it. As I lay on that couch this morning, I couldn't help but think of you. Your job is not too different from those nurses. What you do causes some pain, requires great steadiness and depends on you giving constant reassurance to us - the donors. Please don't take too much, but please be sure you take enough, and then use it very carefully - to help.

Lord of needles and Lord of taxes, may those who give and those who receive always be grateful for those who are brave enough to do the taking. Bless these senators and all who help them in this work. May we and they never forget why it is that they are sticking us. Amen

Senator Russman led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

NOTICE OF RECONSIDERATION

Senator Russman served notice of reconsideration on **HB 1582**, an act authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures.

NOTICE OF RECONSIDERATION

Senator Rubens served notice of reconsideration on **HB 1113**, an act relative to the order of names on state primary election ballots.

COMMITTEE REPORTS

HB 1208, an act requiring consumer credit reporting agencies collecting data on a national basis to provide a consumer with one free consumer report annually. Banks Committee. Vote: 5-1. Inexpedient to legislate. Senator Johnson for the committee.

SENATOR JOHNSON: HB 1208 would require consumer credit reporting agencies collecting information on a national basis to provide a consumer with one report free, annually. The Banks Committee failed to see the necessity for such legislation when the present system supplies the consumer with a free credit report when they have been denied credit for any reason. Rarely does anyone think of reviewing their credit report if they have been accepted. If someone has been denied credit and does request their free report, they do have the ability to then amend any errors or discrepancies that may be within that report. The Banks Committee recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1212, an act relative to the powers of trustees under the Uniform Trustees' Powers Act. Banks Committee. Vote: 6-0. Ought to pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, HB 1212 addresses a situation where a trustee of a private trust may also be the beneficiary of a trust. This position benefits that person in regard to distributions made from the trust. HB 1212 will limit their discretionary power so that they can only provide for their health and education support from that trust and provides that a person having a right to remove or to replace a trustee does not, simply by having this right, possess the powers of a trustee. The Banks Committee was unanimous in supporting this bill.

Adopted.

Ordered to third reading.

HB 1311, an act requiring banks to cash state financial assistance benefit checks. Banks Committee. Vote: 5-1. Inexpedient to legislate. Senator F. King for the committee.

SENATOR F. KING: HB 1311 would require banks to cash state financial assistant benefit checks for free. Testimony at the public hearing indicated that currently, 215 banks and branches located throughout New Hampshire already cash these checks for free. Additionally, this bill would only mandate state chartered banks and not federally chartered institutions. The Banks Committee could not see the necessity of this bill: therefore, recommend it inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1332-FN, an act requiring financial institutions to display certain information on fees, charges, and available products in their lobbies. Banks Committee. Vote: 5-0. Ought to pass with amendment. Senator Fraser for the committee.

5704L

Amendment to HB 1332

Amend the title of the bill by replacing it with the following:

AN ACT

requiring financial institutions to display certain information on fees, charges, and available products in their lobbies and authorizing nonstationary bank branch offices.

Amend the bill by replacing all after section 1 with the following:

2 Section Heading Amended. Amend the section heading of RSA 384-B:2-c to read as follows:

384-B:2-c Branch Closings and Relocations; ***Nonstationary Branches.***

3 New Paragraph; Nonstationary Branches. Amend RSA 384-B:2-c by inserting after paragraph II the following new paragraph:

III. Notwithstanding paragraph II of this section, a bank may apply to the commissioner for authority to establish and operate a nonstationary branch office, consisting of a bank-owned motor vehicle specifically designed for the purpose, in any municipality within the state in accordance with the provisions of this chapter. Approval to establish and operate a nonstationary branch office shall be requested by filing an application with the bank commissioner pursuant to RSA 384-B:2, III. Any nonstationary branch office which is approved by the bank commissioner pursuant to this paragraph may engage in any activity authorized for a stationary, fixed location branch office which is permitted under this chapter or other applicable state or federal law.

4 Effective Date. This act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill requires financial institutions regulated by the bank commissioner to provide and display certain information on fees, charges, and available products on uniform matrices developed by the bank commissioner. The bank commissioner is granted rulemaking authority to develop such matrices.

This bill also allows a bank to operate a nonstationary branch office which has been approved by the bank commissioner.

SENATOR FRASER: Mr. President, HB 1332 as amended will allow banks, with approval from the banking commissioner, to establish and operate a non stationary branch office or so-called mobile bank in any municipality in New Hampshire in accordance with this provision. This bill also requests financial institutions regulated by the bank commissioner to provide and to display information on fees, charges and available products of the matrices. These matrices will be developed by the bank commissioner through rules. The banking industry, as well as the sponsors of the bill, endorse this amendment as well as the bill itself.

Amendment adopted.

Ordered to third reading.

HB 1300, an act relative to the enforcement of zoning regulations. Economic Development Committee. Vote: 6-0. Ought to pass with amendment. Senator Gordon for the committee.

5742L

Amendment to HB 1300

Amend the bill by inserting after section 4 the following and renumbering the original sections 5-14 to read as 6-15, respectively:

5 New Section; Limitation on Actions. Amend RSA 676 by inserting after section 15 the following new section:

676:15-a Limitation on Actions.

I. If real property has been physically improved in accordance with the terms of a building permit issued by a person duly authorized to issue such permit, no action, criminal or civil, the effect or purpose of which is to compel the abandonment, limitation, or modification of the use allowed by such permit or the removal, alteration or relocation of any structure erected in reliance upon such permit by reason of any alleged violation of the provisions of this title, or of any local ordinance, code, or regulation adopted under this title, shall be maintained, unless such action, suit or proceeding is commenced and notice thereof recorded in the registry of deeds for each county in which the land lies within 6 years next after the commencement of the alleged violation of law.

II. No action, criminal or civil, the effect or purpose of which is to compel the removal, alteration, or relocation of any structure by reason of any alleged violation of the provisions of this title, or of any local ordinance, code, or regulation adopted under this title, or the conditions of any variance or special permit, shall be maintained, unless such action, suit or proceeding is commenced and notice thereof recorded in the registry of deeds for each county in which the land lies within 10 years next after the commencement of the alleged violation.

III. The notice recorded in the registry of deeds shall include names of one or more of the owners of record, the name of the person initiating the action, and adequate identification of the structure and the alleged violation.

AMENDED ANALYSIS

Section 4 of this bill gives authority to a zoning board of adjustment to grant an equitable waiver for certain violations of dimensional or physical layout requirements of zoning ordinances upon application and hearing by the property owner.

Section 5 of the bill establishes a statute of limitations of 6 years within which time actions must be commenced to compel the abandonment, limitation, or modification of the use of real property improved in accordance with a building permit, for the purpose of enforcing an alleged violation of the zoning statutes. It also establishes a statute of limitations of 10 years within which time actions must be commenced to compel the removal, alteration, or relocation of any structure for the purpose of enforcing an alleged violation of the zoning statutes.

The remainder of this bill amends certain RSA provisions making them gender neutral and consistent with other sections amended by the bill in accordance with RSA 17-A:6 relative to gender neutral drafting.

SENATOR GORDON: This is a very simple bill. It creates a statute of limitations in cases where someone inadvertently violates a zoning restriction. It limits the amount of time that a community can come back on that individual and enforce the zoning regulation or the provisions of the zoning regulations.

Amendment adopted.

Ordered to third reading.

HB 378-FN-L, an act relative to school employee background investigations. Education Committee. Vote: 7-0. Interim study. Senator Lovejoy for the committee.

SENATOR LOVEJOY: Mr. President, this bill would have required a background and criminal check on employees on people selected for employment in SAUs of school districts who have contact with children. There are several problems with the bill as it came before us. One, it requires fingerprints to be submitted by any of these people. Another, it doesn't properly identify if an employee of a company that has contracted working in their remote location, but servicing children, would have to have the criminal check. Also, it didn't address though other establishments such as hotels that students may go to on trips or whether it would cover those employees. The committee felt that although the issue of protecting our children in schools is important, and we all agree that background checks should be conducted, we didn't want to kill the bill and the only alternative was to interim study and that is our recommendation.

Committee report of interim study is adopted.

HB 473-FN-A-L, an act establishing the distance learning commission. Education Committee. Vote: 7-0. Ought to pass with amendment. Senator Lovejoy for the committee.

5748L

Amendment to HB 473-FN-A-LOCAL

Amend paragraph I(a) as inserted by section 5 of the bill by replacing it with the following:

(a) Identify the distance learning educational and professional development needs of various educational, community, and business organizations, including private schools and home education programs.

Amend paragraph I(c) as inserted by section 5 of the bill by replacing it with the following:

(c) Identify the role of the state in implementing the policy, including distance learning in the state and local curricula.

SENATOR LOVEJOY: This bill is a good bill. It sets up the distance learning commission which will look into the ways in which schools can get into the internet as well as link together with audio and visual and data connections. This linkup between schools could be interactive as well, linked schools with enhanced instruction availability for advanced students since they could attend advanced classes with other students at other schools. The division of programs support is working to get schools into the internet and this commission could help in that effort. The committee suggests amending the bill so that private schools and home schools and how they might link with public schools will be investigated as well. The committee recommends unanimously that this bill ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1252-FN-A-L, an act establishing a local education improvement assistance program and making an appropriation therefor. Education Committee. Vote: 6-1. Inexpedient to legislate. Senator Stawasz for the committee.

SENATOR STAWASZ: This bill creates a local education assistance program which would provide aid for developing and implementing stan-

dards to improve education locally. The Education Committee is recommending this bill as inexpedient to legislate because the provisions of the bill have been placed into HB 1610 which will come up later on our calendar. Someone will probably ask why? The answer is that an amendment to deal with SAUs was offered for HB 1252 adding the SAU language while keeping the contents of the bill. The committee was also considering HB 1610 which had to do with SAUs, so we decided to put that SAU language into HB 1610 which put the text of HB 1252 into 1610, so it was duplicative and that is why we are recommending inexpedient to legislate.

SENATOR LARSEN: I can't resist standing up and saying that the games are beginning here. We are beginning to see . . . maybe it has been going on a lot longer, but I am just finding that we have here, a bill, a good bill, that is getting put away as inexpedient to legislate so that it can be tacked onto a nongermane bill and games begin to be played with the House. This is wrong. We all know the Education Improvement Assistance Program was a workable program and it was cut for budget reasons, yet we know that we needed to keep that going for our schools. It is wrong to say that this bill is inexpedient to legislate and I would like to ask for a roll call.

SENATOR SHAHEEN: Senator Larsen, would you say that the reason that this bill has been put onto HB 1610 is in an effort to try to get the House to pass the amended version of HB 1610 because they won't want to kill this bill?

SENATOR LARSEN: You are completely correct in your understanding of what is going on.

SENATOR SHAHEEN: Thank you.

Question is on the committee report of inexpedient to legislate.

A roll call was requested by Senator Larsen.

Seconded by Senator Currier.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Barnes, J. King, Russman, Danaïs, Delahunty, Keough.

The following Senators voted No: Blaisdell, Pignatelli, Larsen, Shaheen, Cohen.

Yeas: 19 - Nays: 5

Committee report of inexpedient to legislate is adopted.

HB 1270-L, an act allowing school administrative units to establish advisory budget or finance committees under the municipal budget law. Education Committee. Vote: 7-0. Ought to pass. Senator Stawasz for the committee.

SENATOR STAWASZ: This bill allows SAUs to form advisory budget or finance committees which would give the SAU a further measure of oversight on spending. These committees could act to get the message out that SAUs are spending their money on what they should, the provisions under which the SAU can form an advisory budget committee, is the

municipal budget law. These committees are formed the same way and have the same restrictions as municipal advisory budget committees. The committee recommends the bill as ought to pass.

Adopted.

Ordered to third reading.

HB 1450-FN, an act relative to postsecondary educational assistance for members of the New Hampshire national guard. Education Committee. Vote: 7-0. Ought to pass with amendment. Senator Stawasz for the committee.

5740L

Amendment to HB 1450-FN

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a study committee on postsecondary educational assistance for members of the New Hampshire national guard.

Amend the bill by replacing all after the enacting clause with the following:

1 Study Committee on Postsecondary Educational Assistance for New Hampshire National Guard Members. There is established a committee to study the issue of providing postsecondary educational assistance for members of the New Hampshire national guard. The committee shall:

I. Determine the ability of the national guard to attract and retain members through the availability of tuition-free courses at state-supported postsecondary institutions.

II. Examine other postsecondary educational assistance options to attract and retain national guard members.

III. Assess the fiscal impact on state-supported postsecondary institutions of offering tuition-free courses on a space available basis to national guard members.

IV. Examine programs offered by neighboring states which offer postsecondary educational assistance to state national guard members.

V. Seek the advice of the New Hampshire national guard, the office of the chancellor of the university system, and the office of the commissioner of regional community-technical colleges.

2 Members; Chair; Mileage.

I. The committee shall consist of:

(a) Three house members, one of whom shall be a member of the house education committee, appointed by the speaker of the house.

(b) Three senators, one of whom shall be a member of the senate education committee, appointed by the senate president.

II. The first-appointed house member shall call the first meeting of the committee. The committee shall elect a chairperson at its first meeting. Members shall receive mileage at the legislative rate.

3 Report. The committee shall submit a report of its findings and any recommendations for legislation on or before November 1, 1996, to the speaker of the house, the senate president, the house clerk, the senate clerk, the governor, and the state library.

4 Effective Date. This act shall take effect upon its passage.

SENATOR STAWASZ: This bill would have allowed the New Hampshire National Guard to take courses, tuition free on a space available basis at state supported post secondary institutions. The committee felt that

although the National Guard members do a great service, there was sufficient questions about the subject to amend it to a study committee to have the subjects of a potential fiscal impact on the state's post secondary schools looked into. Also the question of other methods which might be used as incentives for people to join. The committee recommends ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1472, an act establishing a committee to study ways to enhance the post secondary education system so as to attract European businesses. Education Committee. Vote: 7-0. Ought to pass with amendment. Senator Gordon for the committee.

5751L

Amendment to HB 1472

Amend the bill by replacing section 1 with the following:

1 Committee Established; Purpose; Membership. A committee is established to study ways to enhance the postsecondary education system so as to attract European business and industry to locate in the state of New Hampshire. The committee shall consist of five members of the house of representatives, one of whom shall be a member of the house education committee, appointed by the speaker of the house.

SENATOR GORDON: This bill would have created a committee of legislators to study ways in which the post secondary Education system could be enhanced so that they could better be used to attract European businesses into New Hampshire. While the committee recognizes that bringing new businesses into New Hampshire is always looked upon favorably, the committee decided to amend this bill to increase the House membership and eliminate the Senate membership because the committee felt that this was primarily a House initiative. The Senate Education Committee does feel that the subject matter is important enough to warrant study and we will give the House the opportunity, perhaps, to put together some legislation for next year's session.

Amendment adopted.

Ordered to third reading.

HB 1532-FN-L, an act allowing school districts to file a district-wide plan for the evaluation and remediation of teachers with the department of education. Education Committee. Vote: 5-1. Inexpedient to legislate. Senator Rubens for the committee.

SENATOR RUBENS: This bill would have allowed in statute school districts to develop plans that would file with the Department of Education which would spell out under what terms the district could deny renomination or reelection of a teacher. The committee felt that the districts currently do have the ability to set standards for teachers and that there is no reason to set this additional provision into statute. The committee recommends this bill as inexpedient to legislate and the vote on that was 5 - 1.

Committee report of inexpedient to legislate is adopted.

HB 1610-FN-L, an act relative to school administrative units. Education Committee. Vote: 7-0. Ought to pass with amendment. Senator Rubens for the committee.

5750L

Amendment to HB 1610-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a local education improvement assistance program
and making an appropriation therefor, and allowing school
districts to withdraw from school administrative units
and authorizing school districts to assume
SAU responsibilities.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Establishment of SAUs by State Board; Discretionary Duty. Amend RSA 186 by inserting after section 10-a the following new section:

186:10-b Establishment of School Administrative Units by State Board of Education.

I. The state board of education may combine the several school districts in the state into school administrative units consisting of one or more school districts. Such school administrative units legally organized shall be corporations, with power to sue and be sued, to hold and dispose of real and personal property for the establishment of facilities for administration and any instructional purposes, and to make necessary contracts in relation to any function of the corporation; provided, however, that such school administrative units shall not have the power to procure land, to construct or purchase buildings, to borrow money in order to purchase real estate, or to mortgage such real estate. In forming such school administrative units the state board may continue the school administrative units previously formed, when that is the reasonable thing to do, and may dissolve school administrative units and form new school administrative units when it finds that such an action promotes the best interests of the schools.

II. A school district may withdraw from a school administrative unit, provided that the school district follows the procedures set forth in RSA 189:47-b relative to such withdrawal.

2 New Section; School District Option to Withdraw From School Administrative Unit. Amend RSA 189 by inserting after section 47-a the following new section:

189:47-b School District Option to Withdraw; Procedure; Transfer of Duties.

I.(a) A school district may withdraw from a school administrative unit in the following manner:

(1)(A) In a town or district, the question shall be placed on the warrant of a special or annual school district meeting under the procedures set out in RSA 39:3 and RSA 197:6, and shall be voted on by official ballot.

(B) In a city, the governing body of the school district may consider and act upon the question in accordance with their normal procedures for passage of resolutions, ordinances, and other legislation. The governing body of a city may vote to place the question on the official ballot for any regular municipal election, or, in the alternative, shall place the question on the official ballot for any regular municipal election upon submission to the governing body of a petition signed by 2 percent of the registered voters.

(2) The school district's governing body shall hold a public hearing on the question at least 15 days but not more than 30 days before the question is to be voted on. Notice of the hearing shall be posted in at least 2 public places in the school district and published in a newspaper of general circulation at least 7 days before the hearing.

(3) The wording of the question shall be: "Shall (the school district) withdraw from School Administrative Unit (number)?"

(b) If a majority of those voting on the question vote "YES," the withdrawal shall be effective on July 1 of the next calendar year following the date of such vote and the withdrawal process shall conform to rules adopted by the state board of education under RSA 541-A. The state board of education is further authorized to facilitate and provide final resolution of SAU withdrawal matters not expressly covered by the rules, so long as the state board's actions are in consonance with the spirit and intent of this chapter, and do not impede the administrative self-determination rights provided to districts by this chapter.

(c) If the question is not approved, the question may later be voted upon according to the provisions of paragraph I.

II. Upon withdrawal of the school district from the school administrative unit, the school district shall be authorized to assume and discharge the duties and responsibilities of the former school administrative unit. The local school board shall be authorized to define and implement any administrative structure deemed beneficial to the district, provided that the chosen administrative structure assimilates all transferred duties and responsibilities.

3 Section Heading Revised. Amend the section heading of RSA 193-C:9 to read as follows:

193-C:9 Local Education Improvement and Assessment Plan; **Assistance Program.**

4 Local Education Improvement Assistance Program Established. RSA 193-C:9, II is repealed and reenacted to read as follows:

II.(a) There is established within the department of education a local education improvement assistance program. The department shall use funds appropriated for this program to provide technical assistance and training to school districts in developing and implementing local education improvement and assessment plans based on assessment results.

(b) Funds shall be utilized to support school districts in the use of local and statewide assessment results to improve instruction and enhance student learning, and to identify and implement methods and models of instruction that have proven to be effective in helping students reach the educational standards identified in the New Hampshire curricular framework.

(c) A strong emphasis shall be placed on identifying model teachers in the areas included in the statewide education improvement and assessment program and providing them with opportunities to share their expertise and enthusiasm with local educators and community members in developing local education improvement and assessment plans.

(d) In implementing this program, the department may enter into grants or contracts with institutions of higher education, regional consortia, and private businesses. Grant recipients and contractors shall work in coordination with, and under the broad supervision of, the department of education.

5 Supplemental Appropriations; Local Education Improvement Assistance Program. The sums of \$1 for the fiscal year ending June 30, 1996,

and \$1 for the fiscal year ending June 30, 1997, are hereby appropriated to the department of education for the local education improvement assistance program established in RSA 193-C:9, II. These appropriations shall not lapse until June 30, 1997. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated. These sums shall be in addition to any other sums appropriated to the department.

6 Repeal. The following are repealed:

I. RSA 186:11, I, relative to the establishment of school administrative units by the board of education.

II. RSA 186:69, relative to the school improvement program.

7 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill provides that the state board may establish school administrative units and repeals the provision which requires the board to do so, and provides that school districts may withdraw from school administrative units, sets forth the procedures to withdraw, and authorizes such school districts to assume or discharge the former SAU responsibilities after withdrawal.

This bill also establishes a local education improvement assistance program and makes appropriations to the department of education for such program.

SENATOR RUBENS: This bill as amended allows school districts to withdraw from school administrative units and sets provisions that the districts must follow to withdraw, including allowing rulemaking by the state board of education on that process. This is extremely similar, in fact, almost identical to the bill that we passed last year by 23 - 1, the SAU bill, allowing the same powers. The amendment removes the unfunded state mandate that all school districts must belong to a SAU and prevents the existing unfunded mandate, prevents local districts from choosing methods of self administration suited to their local needs. This bill allows a local control option for school districts to administer themselves by means that they choose, provided that all of the duties of the present SAU be assimilated into the new chosen administrative structure. We have additionally, on this bill, included the school improvement program as previously discussed. Thank you very much. This bill was recommended as ought to pass as amended by the Education Committee by 7 - 0 vote.

SENATOR SHAHEEN: Senator Rubens, can you tell me . . .

SENATOR RUBENS: Oh, it's my turn.

SENATOR SHAHEEN: I know, but I only have one question. Can you tell me what criteria the committee used in determining that putting the school improvement program on this other bill was germane? I guess that I am not satisfied with Senator Stawasz' original explanation that there was a reason to put these two bills together when they actually deal with two very different issues.

SENATOR RUBENS: I guess that we felt that the School Improvement Program should pass, and by virtue of the fact that the SAU bill in this body last year passed 21 - 1, we wanted to, I guess, grease it. They are both bills that have very, very wide public support, and in fact, that kind of support from this body.

SENATOR SHAHEEN: But, Senator Rubens, if in fact that was the intent of the committee, we know that the School Improvement Program

had already gotten through the House, so if the committee supported, as you obviously did by putting this on the bill, why didn't you just leave it as a separate bill? Why did you want to combine it with the other legislation?

SENATOR RUBENS: I think that there are some people who have reservations about the House passed version which we maintained, which appropriates only \$1, whether that is in essence a promise extended to the districts that we don't intend to fulfill, because we all know what the budget looks like this year. So I think that it is in essence in overcoming, perhaps myself, I guess that I will speak of myself, I have reservations about \$1 appropriations on bills, that assist me in overcoming that reservation.

SENATOR SHAHEEN: But in fact, isn't the issue here, whether the House is going to be willing to accept the amended version of HB 1610, not whether the School Improvement Program is going to get through? And in fact, that the committee put the school improvement program onto 1610 to try and make sure that the House had to either support the School Improvement Program or the amended version of 1610 as it is coming out of the Senate?

SENATOR RUBENS: I can't imagine the House having a dilemma on either of those two subjects.

SENATOR SHAHEEN: Thank you.

SENATOR BARNES: Is this something like what is happening to the exclusivity bill, with insurance being put onto another bill? Is this similar to that or not?

SENATOR SHAHEEN: No, Senator Barnes, it isn't at all, because there is no bill being added on to the exclusivity bill. The exclusivity legislation is being amended; however, I would say that it is very much like your amendment to deal with the MacDonald's franchises that was added to HB 1207 today in Insurance. I think that it is probably similar to that.

SENATOR BARNES: Might I correct you on that statement. It is not my MacDonald's bill. Thank you.

SENATOR SHAHEEN: Senator Fraser's MacDonald's bill.

Amendment adopted.

Ordered to third reading.

HB 1623-L, an act authorizing school districts to establish revolving funds to finance certain programs, and relative to the printed materials revolving fund under the department of education, and increasing the appropriation therefor. Education Committee. Vote: 4-0. Ought to pass with amendment. Senator Stawasz for the committee.

5745L

Amendment to HB 1623-LOCAL

Amend RSA 194:3-c, V as inserted by section 1 of the bill by replacing it with the following:

V. Upon termination of a school program funded under this section, moneys derived from such program remaining in the revolving fund shall be returned to the pupil if derived from tuition, or used as local general funds to reduce the tax rate if derived from the sale of goods or services associated with the program.

Amend RSA 186:13, XII as inserted by section 2 of the bill by replacing it with the following:

XII. REVOLVING FUND. For a nonlapsing revolving fund to be known as the printed materials revolving fund which is hereby established to be administered by the department of education. The moneys in said fund shall be used for the purpose of printing materials for distribution. A reasonable charge shall be established for each copy of a document. Charges made shall be in the amount necessary to pay the cost of producing such documents. Receipts from the sale of any documents shall be credited to the fund established in this paragraph. The receipts from such charges shall be used for no other purpose than the subsequent printing of documents of the department of education. State agencies and members of the general court shall not be charged for printed materials which are paid for by the fund. Any available balance in this fund in excess of \$50,000 on June 30 of each year shall be deposited in the general fund as unrestricted revenue.

Amend the bill by replacing section 3 with the following:

3 Department of Education; Printed Materials Revolving Fund Appropriation Increased. Amend 1995, 307:1.06, 03, 02, 01, 03, fiscal year 1996 and 1997, as follows:

Strike out:

06 Education		FY 1996	FY 1997
03 Department of Education			
02 Office of the Dep Commissioner			
01 Deputy Commissioner			
03 Printing Revolving Fund			
20 Current Expenses		8,850	8,850
40 Indirect Costs	E	1,150	1,150
Total		10,000	10,000
Estimated Source of Funds For Printing Revolving Fund			
03 Revolving Fund	I	10,000	10,000
Total		10,000	10,000

Printed materials - Revolving Fund Any moneys not in excess of \$10,000 shall not lapse and shall be used for the sole purpose of printing materials for distribution by the department of education. Reference: RSA 186:13 XII.

Insert:

06 Education		FY 1996	FY 1997
03 Department of Education			
02 Office of the Dep Commissioner			
01 Deputy Commissioner			
03 Printing Revolving Fund			
20 Current Expenses		50,000	50,000
Total		50,000	50,000
Estimated Source of Funds For Printing Revolving Fund			
03 Revolving Fund I,	C	50,000	50,000
Total		50,000	50,000

Printed materials - Revolving Fund Any moneys not in excess of \$50,000 shall not lapse and shall be used for the sole purpose of printing materials for distribution by the department of education. Reference: RSA 186:13, XII.

SENATOR STAWASZ: This bill allows school districts to establish revolving funds for the purpose of providing funds for programs which are self supporting in whole or in part. Currently, school districts are not able to establish revolving funds even though they are supported primarily by

the district and not the taxpayer. The bill also increases the maximum amount that the printed materials revolving fund in the Department of Education can reach from \$25,000 to \$50,000. This fund is also self-supporting and it simply allows the department to carry a larger reserve. The committee recommends the bill as ought to pass as amended.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 1177-FN, an act relative to the state board of licensing for foresters. Environment Committee. Vote: 6-0. Ought to pass. Senator Russman for the committee.

SENATOR RUSSMAN: HB 1177 reauthorizes the Board of Licensing for Foresters. This board was originally established in 1990 with the provision of sunset this year, the Environment Committee feels that the functions this board performs are important enough that the board should continue without additional sunset provisions and since its inception the forestry board has served as a valuable protection to consumers for keeping government regulation to a minimum. We would urge ought to pass.

Adopted.

Ordered to third reading.

HB 1399, an act establishing 2 new positions in the department of environmental services to implement the sludge permit system; repealing the sewage disposal system fund; relative to sewage disposal system recording fees; and making appropriations from the balance contained in the sewage disposal system fund. Environment Committee. Vote: 5-0. Ought to pass with amendment. Senator Rodeschin for the committee.

5767L

Amendment to HB 1399

Amend the bill by replacing all after section 2 with the following:

3 Recording Fees for Sewage Disposal Systems. Amend RSA 485-A:30, III to read as follows:

III. Any person submitting plans and specifications as a resubmission for reapproval of such shall not be required to pay any additional fee under RSA 485-A:30, I [and II] if changes to such plans and specifications would not constitute a new subdivision under the provisions of RSA 485-A:2, XIII.

4 Repeal. The following are repealed:

I. RSA 6:12, I(ss), relative to the sewage disposal system fund.

II. RSA 485-A:30, II, relative to recording fees for sewage disposal systems.

5 Effective Date. This act shall take effect July 1, 1996.

AMENDED ANALYSIS

This bill establishes 2 new positions in the department of environmental services to implement the sludge permit system. The bill repeals the sewage disposal system fund and makes appropriations to the department of environmental services from the balance of the fund.

This bill also repeals the provision requiring persons submitting sewage or waste disposal system plans to pay a fee for recording the plans with the registry of deeds, which was deposited in the sewage disposal system fund.

SENATOR RODESCHIN: HB 1399 reinstates two positions at the Department of Environmental Services which were eliminated as the result of the budget passed last year. The funds for these two positions will come out of the existing nonlapsing Sewage Disposal System Fund which is currently not being used. The bill also provides for a new computer system which will assist the department in tracing permitted sites. The Environment Committee recommends HB 1399 as ought to pass as amended.

Recess.

Senator Currier in the Chair.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 1572-L, an act recodifying and revising the solid waste laws. Environment Committee. Vote: 6-0. Ought to pass with amendment. Senator Johnson for the committee.

5763L

Amendment to HB 1572-LOCAL

Amend RSA 149-M:9, II as inserted by section 2 of the bill by replacing it with the following:

II. It shall be unlawful to transport solid waste to, or to dispose of solid waste at, any facility other than an approved facility.

Amend RSA 149-M:9, VII as inserted by section 2 of the bill by replacing it with the following:

VII. A permit issued by the division for a facility shall not eliminate the need to comply with all lawful and applicable local ordinances, codes, and regulations that are consistent with a district plan.

SENATOR JOHNSON: HB 1572 recodifies the solid waste laws and defines those statutes which have been confusing in the past. The Environment Committee urges passage of HB 1572 with the amendment.

Amendment adopted.

Ordered to third reading.

Recess.

Senator Delahunty in the Chair.

HB 1633-FN-L, an act relative to solid waste management. Environment Committee. Vote: 5-1. Ought to pass with amendment. Senator F. King for the committee.

5764L

Amendment to HB 1633-FN

Amend the bill by deleting sections 1 and 2 and renumbering the original section 3-10 to read as 1-8, respectively.

Amend the bill by replacing sections 7 and 8 with the following:

9 Contingency.

I. If HB 1572-LOCAL, of the 1996 legislative session becomes law, sections 2, 4, and 6 of this act shall take effect at 12:01 a.m. on the effective date of HB 1572-LOCAL, and sections 1, 3, and 5 of this act shall not take effect.

II. If HB 1572-LOCAL of the 1996 legislative session does not become law, sections 2, 4, and 6 of this act shall not take effect, and sections 1, 3, and 5 of this act shall take effect upon its passage.

8 Effective Date.

I. Sections 1-6 of this act shall take effect as provided in section 7.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

(1) Clarifies the obligations of solid waste facilities to obtain local approvals.

(2) Clarifies authority of towns to make bylaws governing refuse.

SENATOR F. KING: SB 1633 is a companion bill to HB 1572. It will maintain local control over solid waste facilities to the degree that they comply with state law and as long as they do not interfere with the state's ability to maintain stringent, consistency throughout the state. The amendment addresses concerns that were raised by the Nashua Landfill. The Environment Committee recommends HB 1633 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

Recess.

Senator Delahunty in the Chair.

HB 1186-FN, requiring the executive director of the department of fish and game to adopt rules regulating fishing tournaments, including rules regarding waivers of tournament fees. Fish and Game/Recreation Committee. Vote: 6-1. Ought to pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill requires the executive director of the Department of Fish and Game to adopt rules regulating fishing tournaments. The rules are to include rules relating to the waiver of tournament fees. The bill also repeals a provision that required the organization conducting the derby to contribute 20 percent of the proceeds to the Department of Fish and Game. The fiscal impact of this bill is under \$10. The committee voted ought to pass.

Adopted.

Ordered to third reading.

HB 1530-FN, an act authorizing the executive director of the department of fish and game to regulate the taking of deer and moose and permitting the director to adopt rules relative to a registration agent's fees. Fish and Game/Recreation Committee. Vote: 5-2. Ought to pass. Senator Roberge for the committee.

SENATOR ROBERGE: This bill authorizes the executive director of the Department of Fish and Game to regulate the taking of deer and moose and permitting the director to adopt rules relating to the registration agents fees. In addition, the bill changes the general penalty section regarding fishing violations and repeals various statutes relative to fishing on certain lakes. The committee voted ought to pass.

Senator Roberge offered a floor amendment.

5775L

Floor Amendment to HB 1530-FN

Amend the bill by replacing section 2 with the following:

2 Executive Director; Authority to Regulate Taking of Moose Extended; Rulemaking. Amend RSA 208:1-a, I and II to read as follows:

I. No person shall hunt, take, or [have in his possession] *possess* any moose or any part of the carcass of a moose taken in this state without first obtaining a valid license for such activities from the department of fish and game. The executive director of fish and game, with the consent of the commission, may establish, by rules adopted under RSA 541-A, a hunting season for moose in any county of the state, or any portion thereof. Such rules shall include, but not be limited to, the mode by which moose may be taken; the length of the season; requirements for reporting by hunters; sex limitations; and total take in any one year. [The authority of the executive director as granted by this section shall expire on December 31, 1996, except that such authority shall permit the executive director, with the consent of the commission, to set the opening date of hunting season for moose for 1997.]

II. The executive director, with the consent of the commission, shall also adopt rules under RSA 541-A to regulate the issuance of licenses or permits and to set fees for applications, licenses, or permits *for both resident and nonresident applicants*.

Amend the bill by replacing section 20 with the following:

20 Repeal. The following are repealed:

I. RSA 208:22, VIII, relative to the sale of bear.

II. RSA 211:2-a, relative to the taking of trout and salmon.

III. RSA 211:2-b, relative to restrictions on taking fish in trout waters.

IV. RSA 211:6-a, relative to fishing on Umbagog Lake.

V. RSA 211:6-b, relative to the elimination of the weight limit on black bass.

VI. RSA 211:6-c, relative to fishing on Christine Lake.

VII. RSA 214:34-e, relative to the season for taking baitfish.

SENATOR ROBERGE: This floor amendment has three parts, the first section will allow the executive director of the Fish and Game to continue regulating the taking of moose by adopting rules with the consent of the Fish and Game Commission. This amendment repeals language which would have removed this authority from the executive director as of December 31, 1996. The second section deals with moose permits. The amendment will allow the executive director to issue and charge different fees for resident and nonresident moose permits. This change will bring the wording of the law into compliance with the department's existing rules. The third section repeals various laws relating relative to fishing on certain lakes. The sale of bear and the taking of certain types of fish. At the request of the department, the committee agreed to add two repeals dealing with the taking of trout, back to the bill which had been removed to the House. The Department assured the committee that this authority is contained in other Fish and Game laws.

Floor amendment adopted.

Ordered to third reading.

HB 1580-L, an act allowing landowners to convey discretionary easements in certain land to the municipality in which the land is located and

relative to taxation of land subject to such discretionary easements. Fish and Game/Recreation Committee. Vote: 7-0. Ought to pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill allows a landowner to convey discretionary easements in certain land to the municipality in which the land is located. The bill clarifies the procedures required. The bill encourages the preservation of open space and the decision to grant the easement rests solely with the town. The committee voted ought to pass, unanimously.

Adopted.

Ordered to third reading.

HB 1620, an act relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas. Fish and Game/Recreation Committee. Vote: 7-0. Ought to pass. Senator Roberge for the committee.

Senator Roberge moved to have **HB 1620**, an act relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1620, an act relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas.

HB 1134-FN, an act relative to registration of certain criminal offenders. Judiciary Committee. Vote: 3-0. Ought to pass. Senator Cohen for the committee.

SENATOR COHEN: HB 1134 expands the current law requiring registration of sexual offenders. This bill increases the type of offenses for which registration is required and imposes a 90-day check-in requirement for persons found to be "serious danger to others due to a gravely abnormal mental condition" otherwise known as sexual predators. I urge the unanimous support of this body.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 1138, an act requesting the judicial council to study issues regarding jury duty. Judiciary Committee. Vote: 3-0. Ought to pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1138 which requests the judicial counsel to make a comprehensive study of the criteria now used in the selection, exemption, and compensation of prospective jurors and to make recommendations for policy improvements and standardization procedures. The committee voted 3 - 0 for ought to pass. We urge passage of this bill.

Adopted.

Ordered to third reading.

HB 1159, an act reducing the mandatory minimum sentence for habitual offenders convicted of unlawfully operating a motor vehicle. Judiciary Committee. Vote: 4-0. Inexpedient to legislate. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1159 seeks to reduce the sentence for habitual motor vehicle offenders who unlawfully operate a motor vehicle from a one-year mandatory minimum sentence to a six-month mandatory minor sentence. In the interest of public protection, the committee did not find this weakening of habitual offender law appropriate at this time. The committee recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1173-FN-L, an act relative to juvenile court proceedings and victim's rights in the context of delinquency proceedings. Judiciary Committee. Vote: 4-0. Ought to pass with amendment. Senator Podles for the committee.

5768L

Amendment to HB 1173-FN-LOCAL

Amend the bill by replacing section 1 with the following:

1 Delinquency Court Sessions; Victim's Rights. Amend RSA 169-B:34 to read as follows:

169-B:34 Court Sessions; ***Access to Information.***

I.(a) All juvenile cases shall be heard separately from the trial of criminal cases, and such hearing shall be held wherever possible in rooms not used for such trials. Only such persons as the parties, their witnesses, their counsel, ***the victim, a victim witness advocate or other person chosen by the victim,*** the county attorney, the attorney general and the representatives of the agencies present to perform their official duties shall be admitted; provided, however, that if the witness is under 16 years of age, the witness' parent or other appropriate adult shall be permitted to be present during the witness' testimony. In those cases where the delinquent act complained of would constitute a felony if the act of an adult, the attorney general and the county attorney of the county in which the offense took place shall receive notice thereof by the court.

(b) For the purpose of this section, "victim" means a person who suffers direct physical, emotional, psychological, or economic harm as a result of the commission of a crime or delinquent act. "Victim" also includes the immediate family of any victim who is a minor or who is incompetent, or the immediate family of a homicide victim.

II. If the victim is unable to attend the hearing under paragraph I, the prosecution, upon request of the victim, may disclose to the victim information disclosed at the hearing.

III.(a) At any time after the arrest of a juvenile or the service of a juvenile petition, but the following information regarding the juvenile may be disclosed to the victim, upon the victim's request, by a law enforcement agency or the prosecution:

- (1) Name.***
- (2) Age.***
- (3) Address.***
- (4) Gender.***
- (5) Offense charged.***
- (6) Custody status.***

(b) The information under subparagraph (a) shall not be unreasonably withheld.

IV. It shall be unlawful for a victim to disclose any confidential information to any person not authorized or entitled to access such confidential information. Any person who discloses such confidential information shall be guilty of a violation.

Amend RSA 169-B:37, II(a) as inserted by section 6 of the bill by replacing it with the following:

(a) *The juvenile has escaped from court-ordered custody; or*

SENATOR PODLES: Mr. President, the effective House Bill 1173-FN-L is to open hearings in juvenile delinquency hearings so that the public, particularly the victims affected by the crime, may have access to information elicited in the proceedings. The committee felt that this bill further develops the recent philosophy holding juvenile offenders more accountable for their actions. The bill also permits the release of identifying information about the delinquent minor to the news media when that is in the public interest. The vote was 4 - 0 ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 1196, an act relative to the statute of limitations on claims under the consumer protection statutes. Judiciary Committee. Vote: 4-0. Ought to pass with amendment. Senator Wheeler for the committee.

5756L

Amendment to HB 1196

Amend the bill by inserting after section 3 the following and renumbering the original sections 4 through 13 to read as 5 through 14, respectively:

4 New Paragraph; Exemption Added. Amend RSA 358-A:3 by inserting after paragraph IV-a the following new paragraph:

IV-b. Violations of RSA 205-A which have occurred more than 3 years prior to the complaint alleged to be in violation of this chapter;

AMENDED ANALYSIS

Sections 3 and 4 of this bill change the statute of limitations for certain actions brought under the consumer protection law and the manufactured housing law.

The remainder of this bill amends certain RSA provisions making them gender neutral in accordance with RSA 17-A:6 relative to gender neutral drafting.

SENATOR WHEELER: This bill changes the statute of limitations for actions brought under the consumer protection law. Under the current law, you have two years prior to the complaint and the bill makes it three years prior to the time that the plaintiff knew or reasonably should have known, of the conduct alleged to be in violation. The committee urges passage with amendment.

Amendment adopted.

Ordered to third reading.

HB 1291, an act relative to vandalism and criminal mischief. Judiciary Committee. Vote: 4-0. Ought to pass with amendment. Senator Pignatelli for the committee.

5769L

Amendment to HB 1291

Amend the bill by replacing section 1 with the following:

1 Vandalism Definition Revised; Reference Added. RSA 169-B:45 is repealed and reenacted to read as follows:

169-B:45 Vandalism by Minors.

I. For purposes of this section, "vandalism" has the same meaning as "criminal mischief" in RSA 634:2.

II. The court may order any child who is found to have committed vandalism of private property to write a formal apology to the victim or victims of such vandalism.

III. The court may order any child who is found to have committed vandalism of public property to write a report on the history and significance of that property to the community or on another topic, as determined by the court.

IV. The court shall also order, when appropriate, any child who is found to have committed vandalism to contribute to the restoration of the property or to the restitution to the victim or victims of such vandalism by payment in money, by property repairs, by service to the injured party, or by service to the community.

V. If a child violates the court's order to submit restitution under this section, the child shall be guilty of contempt.

VII. The court may permit payments under this section to be made in installments, up to 7 years, to be administered by the court.

AMENDED ANALYSIS

This bill redefines "vandalism" and requires the court to order any minor who is found to have committed vandalism to private property to write a formal apology. It also requires the court to order any minor who is found to have committed vandalism to public property to write a report on the history and significance of that property to the community or on another topic.

This bill allows the court to order minors who have committed vandalism to contribute to the restoration of the property. Current law also allows the court to order restitution payments, service to the injured party, or community service.

This bill also removes the provision of existing law allowing the court to order the parent or legal guardian to pay restitution if the court finds that the parent or legal guardian failed or neglected to exercise reasonable supervision or control of a child residing with the parent or legal guardian.

SENATOR PIGNATELLI: HB 1291, as amended by the Senate, would allow the court to order a child who is found to have committed vandalism to write a formal apology to the victim, and it would allow the court to order a child who has been convicted to write some kind of a report on the history and the significance of the property that they have damaged or on another topic as determined by the court. It also adds a sentence under the section that criminal mischief is a class B felony, and that sentence reads "if the perpetrator damages public or private property real or personal when the actor knows that the property has historical, cultural, or sentimental value that cannot be restored by repair or replacement."

SENATOR SHAHEEN: Senator Pignatelli, isn't it true that the court has the authority now to do all of those provisions that are outlined in this bill?

SENATOR PIGNATELLI: Yes.

SENATOR SHAHEEN: So would you say that maybe the committee is trying to send a message to the court that perhaps this might be a good way to deal with some of these offenders in the future?

SENATOR PIGNATELLI: Without mandating it, yes.

Amendment adopted.

Ordered to third reading.

HB 1357, an act relative to court decrees in title disputes. Judiciary Committee. Vote: 5-0. Ought to pass. Senator Gordon for the committee.

SENATOR GORDON: This bill simply clarifies existing law which gives the Superior Court the power to render judgements in cases involving title disputes and makes the law more consistent with the New Hampshire Constitution. Thank you.

Adopted.

Ordered to third reading.

HB 1415, an act relative to the confidentiality and maintenance of adoption records. Judiciary Committee. Vote: 6-0. Ought to pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1415 allows the parties, the natural parents of an adult adoptee, and the adoptee himself or herself, to request identifying information from the child placement agency that handled the adoption. If both parties consent to the release of such information, the agency shall release it. If the parties disagree or are not available to agree, the court may hold a hearing on the issue. The committee voted 6 - 0 ought to pass. We urge passage.

Adopted.

Ordered to third reading.

HB 1427, an act relative to termination of parental rights for a parent incarcerated for capital murder or first or second degree murder. Judiciary Committee. Vote: 6-0. Inexpedient to legislate. Senator Wheeler for the committee.

SENATOR WHEELER: This bill will automatically terminate parents incarcerated for capital murder or first or second degree murder. The committee felt that this could be construed as double jeopardy and an extra penalty for the crime, and it would be unconstitutional; therefore, termination of parental rights would have to go through the regular process that is already in place. We urge inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1474, an act relative to legal name changes by individuals. Judiciary Committee. Vote: 6-0. Ought to pass with amendment. Senator Lovejoy for the committee.

5765L

Amendment to HB 1474

Amend RSA 547:3-i as inserted by section 1 of the bill by replacing it with the following:

1 New Section; Name Changes; Probate Courts. Amend RSA 547 by inserting after section 3-h the following new section:

547:3-i Change of Name. The probate judge shall grant the petition of any person 18 years of age or older requesting a legal name change, unless the judge finds that such person has a fraudulent intent in requesting the name change. Under no circumstances shall the judge require the petitioner to obtain the permission of such person's spouse or any other person prior to changing a name.

AMENDED ANALYSIS

This bill requires the probate court to allow a person 18 years of age or older to legally change his or her name, upon petition and without the

permission of a spouse or any other person, unless the court finds that such individual has a fraudulent intent in requesting the name change.

SENATOR LOVEJOY: Mr. President, this bill requires the probate court to allow an individual to legally change his or her name upon petition and without the permission of a spouse or any other person, unless the court finds the individual has a fraudulent intent in requesting the name change. The amendment requires the applicants to be at least 18 years of age. The committee recommends ought to pass.

Amendment adopted.

Ordered to third reading.

HB 1488, an act relative to the New Hampshire bankruptcy laws. Judiciary Committee. Vote: 5-1. Ought to pass with amendment. Senator Cohen for the committee.

5423L

Amendment to HB 1488

Amend the bill by replacing section 2 with the following:

2 Repeal. RSA 511:2-a, relative to nonavailability of federal bankruptcy exemptions, is repealed.

SENATOR COHEN: Currently, New Hampshire law shields or exempts certain property of New Hampshire residents from the reach of creditors. The federal bankruptcy code also contains a list of exempt property. HB 1488 will give New Hampshire residents the option of protecting either the property listed under New Hampshire law or under the bankruptcy code when they file for bankruptcy. The bill also adds a wild card exemption which has the potential of protecting another \$8,000 in assets. The amendment simply repeals the nonavailability of the bankruptcy exemptions. I hope that you will join me in supporting this measure to assist those New Hampshire residents who have financial difficulties. Thank you.

Amendment adopted.

Ordered to third reading.

HB 1524, an act relative to operating a motor vehicle with a suspended license and causing bodily injury. Judiciary Committee. Vote: 5-1. Inexpedient to legislate. Senator Lovejoy for the committee.

SENATOR LOVEJOY: Mr. President, although well intentioned, this bill would have created penalties for certain DWI offenses which already are adequately addressed by current law. Further, it would have attempted to create a different penalty depending on the value of the property that the defendant damages. Although we must continue to do what we can to keep our highways safe, we must make sure that our laws are consistent and clear. The committee recommends inexpedient.

Committee report of inexpedient to legislate is adopted.

HB 1525, an act relative to damages in suits brought by administrators of an estate. Judiciary Committee. Vote: 4-2. Ought to pass. Senator Cohen for the committee.

SPECIAL ORDER

Senator Cohen moved to have **HB 1525**, an act relative to damages in suits brought by administrators of an estate, made a special order for Thursday, April 18, 1996 at 10:00 a.m.

Adopted.

HB 1543, an act relative to the confidentiality of records and information collected pursuant to the registration of sexual offenders. Judiciary Committee. Vote: 3-0. Ought to pass. Senator Gordon for the committee.

SENATOR GORDON: HB 1543 permits a law enforcement agency to notify certain organizations in the community where a registered sexual offender intends to reside. These organizations include schools, youth groups, day care centers, summer camps, libraries and other organizations where children gather and are supervised by persons in the organization. Current law requires sexual offenders to notify local law enforcement agencies when they move into a municipality. This bill will help make that, the registration, more meaningful and effective in protecting children in that community. Thank you, Mr. President.

Adopted.

Ordered to third reading.

HB 1584-FN-L, an act relative to the establishment of a DNA database and to the DNA testing of convicted sexual offenders. Judiciary Committee. Vote: 3-0. Ought to pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1584 which the committee voted ought to pass by a 3 - 0 vote will enable New Hampshire to apply for \$150,000 in federal grant funding to establish a DNA database. This database will then be able to link into a similar federal system to provide numerous law enforcement agencies where they're identifying information about persons convicted of serious sexual offenses. Forty other states have such data bases already. The committee recommends ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 1593-FN, an act establishing a joint legislative committee to study the state investigation of the late John C. Fairbanks. Judiciary Committee. Vote: 3-0. Ought to pass with amendment. Senator Gordon for the committee.

5465L

Amendment to HB 1593-FN

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a house committee to study the state investigation of the late John C. Fairbanks.

Amend the bill by replacing all after the enacting clause with the following:

1 House Committee On the State Investigation of Judge Fairbanks.

I. There is established a committee to study the state investigation of the late John C. Fairbanks. The committee shall consist of 7 house members appointed by the speaker of the house.

II. The committee shall consider the scope and quality of the investigation conducted by any law enforcement agency or professional conduct investigating body related in any way to the state of New Hampshire. The proceedings of the committee shall be recorded and transcribed.

III. Records and transcripts of the proceedings of the committee shall be public documents.

IV. The committee may subpoena witnesses and compel their attendance, and may require the production of books, papers and any other

document or thing whatsoever. Any member of the committee may administer oaths of affirmations to witnesses appearing before the committee.

2 Meetings; Mileage. The first-named member shall call the first meeting of the committee within 30 days of the effective date of this act. The committee shall elect a chairperson at its first meeting. Committee members shall receive mileage at the legislative rate.

3 Report. The committee shall submit an interim report of its findings to the speaker of the house, the senate president, the governor, the house clerk, the senate clerk, and the state library on or before November 1, 1996, and shall submit a final report of its findings and any recommendations for legislation to the speaker of the house, the senate president, the governor, the house clerk, the senate clerk, and the state library on or before November 1, 1997.

4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a house committee to study the state investigation of the late John C. Fairbanks.

SENATOR GORDON: This bill would create a legislative study committee consisting of seven members of the House of Representatives. They would like to study the incidents involved with the former judge Fairbanks so that they could preclude such incidents from happening in the future. Thank you, Mr. President.

Amendment adopted.

Ordered to third reading.

HB 1394, an act establishing a committee to study the reporting of medical test results to health care consumers. Public Institutions, Health and Human Services Committee. Vote: 5-1. Ought to pass with amendment. Senator J. King for the committee.

5701L

Amendment to HB 1394

Amend subparagraph I(b) of section 1 of the bill by replacing it with the following:

(b) Four senators, appointed by the senate president.

SENATOR J. KING: HB 1394 creates a committee to examine the process by which patients are notified of the results in diagnostic testing. The committee will study the current process and recommend, perhaps, a more efficient process. A personal tragedy detailed by a witness at the public hearing, illustrated a need for such a bill. The committee amendment to HB 1394 simply places four Senate members on this committee. We recommend ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 1515-A, an act establishing a telecommunications assistance program. Public Institutions, Health and Human Services Committee. Vote: 7-0. Ought to pass with amendment. Senator Wheeler for the committee.

5743L

Amendment to HB 1515-A

Amend RSA 362-E:3, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Eligibility criteria, including ability to pay, which shall be based on income levels which shall not exceed 200 percent of the federal poverty level guidelines published in the Federal Register.

Amend RSA 362-E:5, I as inserted by section 1 of the bill by replacing it with the following:

I. Eligibility criteria, excluding ability to pay.

SENATOR WHEELER: This bill establishes a new program to buy hardware for the hearing impaired. The bill is funded by a current access charge on your telephone bill in which there is an \$800,000 surplus. The amendment puts a means test on this program. We would urge your support on passage.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 345-L, an act relative to voluntary payments in lieu of taxes and establishing a committee to recommend legislative changes regarding voluntary payments in lieu of taxes. Ways and Means Committee. Vote: 4-3. Ought to pass with amendment. Senator Barnes for the committee. 5460L

Amendment to HB 345-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to voluntary payments in lieu of taxes.

Amend the bill by deleting sections 2-4 and by renumbering the original section 5 to read as 2.

AMENDED ANALYSIS

This bill permits the governing body of the municipality to negotiate voluntary payments in lieu of taxes from fully or partially tax-exempt properties.

SENATOR BARNES: The amendment to HB 345 simply removes an oversight study committee which the members of the Ways and Means Committee believed was unnecessary to achieve the purposes of this legislation. The remainder of the bill encourages municipalities and tax exempt entities to talk with one another. It allows municipalities to accept a voluntary payment in lieu of taxes if one is offered. There is absolutely no requirement to enter into negotiations, nor are there any statutory consequences if a tax exempt entity chooses not to enter into a discussion. The intent of this bill is to encourage discussion and to provide a statutory mechanism for cities and towns to accept payments if they are voluntarily made by these tax exempt entities. The committee urges your support of the recommendation of ought to pass with amendment. Let me say this; there are a couple of sections on this vote and you also see a 4 - 3 vote. The committee, I believe, was unanimous in taking the study out of the bill, just so that will be clear to all of you. Thank you, Mr. President.

SENATOR COLANTUONO: I rise just to explain the intent of the three members who voted against the majority report. The three members wanted a further amendment which would exempt churches and private educational institutions from this voluntary process. The reason being that private educational establishments already pay property taxes on those portions like cafeterias and dormitories which create income for them. But the part that is of more interest to me, is the part relating to

the churches. Churches have first amendment protection. Churches do an enormous amount of good for the people of this state, and all of the members of the churches pay property taxes, either as owners or as renters. So they already do their fair share. We don't want to see a situation where churches feel pressured if they have municipal officials coming to them and telling them that there is a state law which allows them to enter into negotiations for voluntary payments. That is the reason why we voted for a different amendment.

SENATOR BARNES: I would not want any members in this room to think for a moment that the four people in the committee, which I am one of, vote to tax the churches. The conversation with you bringing the churches into this makes me a little itchy, because I, personally, and the rest of the folks that voted against that, already say that it is in the statutes, and I am sure that you know that. I don't think that is a very good thing to put out here that "oh if you are voting for this, you are voting against the churches" because that is not so. There is not one of us in this room that would vote to tax the churches, and I would like to make that perfectly clear, would you believe?

SENATOR COLANTUONO: I would answer that by saying absolutely all seven members of the committee believe that there is no reason to even consider taxing churches. The four members who voted for the majority report certainly didn't have that in mind. The three members who didn't, wanted to make a little stronger statement, but all seven of us agree to what you just said.

SENATOR BARNES: Thank you, Senator.

A roll call was requested by Senator Wheeler.

Recess.

Out of recess.

Senator Wheeler withdrew his request for a roll call.

Amendment adopted.

Ordered to third reading.

Senators Colantuono, Johnson, Lovejoy and Wheeler in opposition to HB 345.

Recess.

Out of recess.

HB 1193-FN-L, an act relative to department of revenue administration reporting requirements relative to a yield tax on timber, establishing an exception from RSA 541-A:16, I(b) for tax filing forms, and removing a budget footnote. Ways and Means Committee. Vote: 7-0. Ought to pass with amendment. Senator Fraser for the committee.

5761L

Amendment to HB 1193-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to department of revenue administration reporting requirements relative to a yield tax on timber, establishing an exception from RSA 541-A for requirements on certain tax filing forms, and removing a budget footnote.

Amend the bill by replacing sections 4 and 5 with the following:

4 New Section; Exception. Amend RSA 21-J by inserting after section 13 the following new section:

21-J:13-a Exemption From Rulemaking Requirement. The commissioner shall be exempt from adopting, as rules pursuant to RSA 541-A, the requirements on the department's tax filing forms for the business profits tax, business enterprise tax, and income and dividends tax.

5 New Paragraph; Exception Added. Amend RSA 541-A:21 by inserting after paragraph IV the following new paragraph:

V. Requirements on tax filing forms as specified in RSA 21-J:13-a shall be exempt from RSA 541-A.

AMENDED ANALYSIS

This bill changes a reporting requirement for the department of revenue administration regarding the revolving fund established for municipal officers and employees education and training. The bill removes a requirement that governing bodies of local governmental units report on estimated revenues in their reports certifying appropriations voted. The bill clarifies that the penalty provisions for failure to file certifications and reports with the department apply to all local governmental units.

The bill establishes an exception from RSA 541-A for requirements for certain tax filing forms adopted by the commissioner of revenue administration.

The bill also establishes that the normal yield tax constitutes a lien upon the real estate from which wood or timber is cut on the date the cutting commences.

SENATOR FRASER: Mr. President, this bill changes a reporting requirement for the Department of Revenue Administration regarding the revolving fund established for municipal officers and employees education and training. HB 1193 removes a requirement that concerns governing bodies of local governmental units report on estimated revenues in their reports certifying appropriations voted. This bill clarifies that the penalty provisions for failure to file certifications and reports with the department apply to all local government units. The bill also makes the commission exempt from adopting certain tax filing forms. Finally, HB 1193 establishes that the normal yield tax, constitutes a lien against the real estate for which wood or timber is cut on the day that the cutting commences. The vote was 7 - 0 in support of the bill. We urge its adoption.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

Recess.

Out of recess.

HB 1344, an act providing for an increase in the maximum cost of sweepstakes tickets and relative to the assignment of lottery prizes. Ways and Means Committee. Vote: 6-0. Ought to pass with amendment. Senator Colantuono for the committee.

5766L

Amendment to HB 1344

Amend the bill by deleting section 13 and renumbering the original sections 14-16 to read as 13-15, respectively.

Amend RSA 287-F:10, I-a(c)(3)(D)(i) as inserted by section 13 of the bill by replacing it with the following:

(i) The assignor may cancel the assignment without cost until midnight of the fifteenth business day after the day on which the assignor has signed an agreement to assign a prize or portion of a prize.

Amend the bill by replacing section 15 with the following:

15 Effective Date.

I. RSA 284:21-i, II(c)(4), as inserted by section 10 of this act, and RSA 287-F:10, I-a and I-b, as inserted by section 13 of this act, shall take effect pursuant to section 14 of this act.

II. The remainder of this act shall take effect upon its passage.

SENATOR COLANTUONO: This bill does several things, first of all, it allows the Sweepstakes Commission to sell a five dollar scratch ticket. It also has a very important piece in it which revises the cross reference to Foundation Aid to include Alternative Foundation Aid which we passed last year under the so-called Merrill plan, to make it clear in the statutes that sweepstakes money can flow through the Alternative Plan. Then it also provides a consumer protection program for those lottery winners who wish to sell the right to their twenty year annuity to a finance company who would in turn, pay them a lump sum. That portion would have to be approved by the Maine and Vermont legislators as part of the Tri-State compact. It has been passed in Maine and it is awaiting action in the Vermont legislature. Thank you.

Amendment adopted.

Senator Gordon and Rubens offered a floor amendment.

5780L

Floor Amendment to HB 1344

Amend the title of the bill by replacing it with the following:

AN ACT

providing for an increase in the maximum cost of sweepstakes tickets, relative to the assignment of lottery prizes and increasing the cigarette tax and designating one portion of the revenue for cancer-related research and screening and anti-smoking campaigns and other portions to fund public kindergarten programs and special education.

Amend the bill by replacing all after section 14 with the following:

15 New Subparagraphs; Special Funds; Anti-Smoking Campaign. Amend RSA 6:12, I by inserting after subparagraph (III) the following new subparagraphs:

(mmm) Money received under RSA 78:7-d, I and private sources, which shall be credited to the cancer-related programs fund established in RSA 172-C:2.

(nnn) Money received under RSA 78:7-d, II and other sources, which shall be credited to the kindergarten fund under RSA 198:39.

(ooo) Money received under RSA 78:7-d, III and other sources, which shall be credited to the special education fund under RSA 198:41.

16 Cigarette Tax. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of [25] 36 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all tobacco products sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest

packages containing the tobacco products in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

17 New Section; Designated Revenues. Amend RSA 78 by inserting after section 7-c the following new section:

78:7-d Designated Revenues. Of the money collected under this chapter:

I. 1/36 shall be deposited by the state treasurer into the fund established in RSA 172-C:2.

II. 5/36 shall be deposited by the state treasurer into the fund established in RSA 198:39.

III. 5/36 shall be deposited by the state treasurer into the fund established in RSA 198:41.

18 New Chapter; Cancer-Related Programs. Amend RSA by inserting after RSA 172-B the following new chapter:

CHAPTER 172-C

CANCER-RELATED PROGRAMS

172-C:1 Cancer-Related Programs. The commissioner of the department of health and human services shall award grants for programs for children and adults on cancer-related research and screening and for anti-smoking campaigns. The commissioner may adopt rules under RSA 541-A relative to the application procedure and criteria for such grants and relative to the administration of the fund established in RSA 172-C:2. The grants authorized in this section shall be financed from the cancer-related programs fund established under RSA 172-C:2.

172-C:2 Fund Established. There is established in the treasury a separate, nonlapsing, and continually appropriated fund to be known as the cancer-related programs fund. Moneys for the fund shall come from tobacco tax revenues under RSA 78:7-d, I and from private grants and donations and any federal funds for which the state is qualified. The commissioner of the department of health and human services shall administer the fund.

19 New Subdivision; Kindergarten Funding; Special Education Funding. Amend RSA 198 by inserting after section 37 the following new subdivision:

Kindergarten and Special Education Funding

198:38 Definition. In this subdivision, "public kindergarten program" means any public or private kindergarten which meets the minimum standards for public school approval, adopted by the state board of education.

198:39 Kindergarten Fund Established. There is established in the treasury a separate, nonlapsing, and continually appropriated fund to be known as the kindergarten fund. Moneys for the fund shall come from tobacco tax revenues under RSA 78:7-d, II and from private grants and donations and any federal funds for which the state is qualified. The commissioner of the department of education shall administer the fund, through rules adopted by the commissioner under RSA 541-A.

198:40 Distribution of the Kindergarten Fund. Beginning with the first September following the fiscal year ending June 30, 1997, moneys in the fund established in RSA 198:39 shall be distributed to the town or city for which a school district provides access to public kindergarten. Payments shall be made in "September, January, and April, of each year, on the dates payments of foundation aid are made under RSA 198:31. Dis-

tributions shall be made on a per capita basis, based on the number of kindergarten students in any public kindergarten program residing in the town or city, for the most recently completed fiscal year.

198:41 Special Education Fund Established. There is established in the treasury a separate, nonlapsing, and continually appropriated fund to be known as the special education fund. Moneys for the fund shall come from tobacco tax revenues under RSA 78:7-d, III and from private grants and donations and any federal funds for which the state is qualified. The commissioner of the department of education shall administer the fund, through rules adopted by the commissioner under RSA 541-A.

198:42 Distribution of the Special Education Fund. Beginning with the first September following the fiscal year ending June 30, 1997, moneys in the fund established in RSA 198:41 shall be distributed to the town or city in which the school district or pre-existing district in a cooperative school district has actual fiscal liability for educationally disabled or developmentally delayed children who are in approved programs of special education, as those terms are defined in RSA 186-C:2, I, I-a, II, and IV. Payments shall be made in September, January, and April, of each year, on the dates payments of foundation aid are made under RSA 198:31. Distributions shall be made on a per capita basis, based on the number of educationally disabled children in approved programs in the legally liable school district with responsibility for the children's education. In computing a town's or city's entitlement, the department of education shall use the average daily membership in residence for those students as determined by the total hours of special education and related services divided by 27.5.

20 Effective Date.

I. RSA 284:21-i, II(c)(4), as inserted by section 10 of this act, and RSA 287-F:10, I-a and I-b, as inserted by section 13 of this act, shall take effect pursuant to section 14 of this act.

II. Sections 15-19 of this act shall take effect July 1, 1996.

III. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

Section 10 of this bill provides for an increase in the maximum cost of a sweepstakes ticket from \$3 to \$5. Sections 10 and 14 of this bill permit the voluntary assignment of tri-state lotto prizes on specified terms and conditions, and permit the prizewinner to pledge future prize payments as collateral for a loan on specified terms and conditions. Section 14 of this bill revises the tri-state lotto compact accordingly. Section 15 provides for application of the provisions in accordance with rulings of the Internal Revenue Service.

Sections 1 and 11 revise cross references to foundation aid to include RSA 198:34-37, alternative foundation aid.

Sections 15-19 of this bill increase the cigarette tax by 11 cents with a portion of the tax designated for use by the commissioner of health and human services to award grants for cancer-related research and screening and anti-smoking campaigns. Other portions of the tax are designated for the funding of public kindergarten and special education.

The remainder of this bill amends certain RSA provisions making them gender neutral and consistent with other sections amended by the bill in accordance with RSA 17-A:6 relative to gender neutral drafting.

SENATOR GORDON: When I arrived here this morning, Mr. President, I found out that I wasn't going to have the opportunity, procedurally, to do what I intended, and that was to offer an amendment onto the next

bill which we would be hearing this morning, which is HB 1517. Because of the parliamentary procedure, in order to offer that amendment, we would have to adopt HB 1517. My amendment, as I am sure that this Senate is fully aware, deals with a provision of property tax relief; therefore, what I have elected to do, is to take in substance, the provisions of HB 1517 as it was proposed, and add to it an amendment which Senator Rubens and I crafted, that would allow property tax relief and the distribution of the cigarette tax revenues back to the towns. That is the purpose of the amendment, generally. I represent Senate District Two. Senate District Two has thirty-two towns. I represent thirty-two towns and no cities. In those thirty-two towns, one of which is unincorporated, but in those thirty-two towns, I have ninety-three selectmen. I frequently visit with those selectmen, and I frequently visit the people in my community. They constantly ask me the very same question, and that is what are you doing about the high property taxes? What are you doing for property tax relief? I know what you are doing in Concord, I can read in the paper what you are doing in Concord, but what are you doing for us out here? What are you doing for those people who are paying property taxes? We want you to do something for us. That is how this bill originated. I never gave the cigarette tax a hope of passing the House. I never thought that it would pass. But it did, and it came over to us. In the cigarette tax, one cent was designated for tobacco prevention education programs. When they passed this bill, they sent ten cents into this huge sponge that we call the general fund, with no designated benefit for anyone, just to be used by the state, the big sponge. Now, when I saw that happen, Mr. President, I decided that something ought to happen with that money. If we are going to pass this cigarette tax, that money ought to head in a particular direction. In my opinion, that direction is towards the people that we represent. Towards those towns and towards those property taxpayers. So I decided that if we are going to pass a cigarette tax, if this legislature as a matter of policy, is going to pass a cigarette tax, let's send the money back to the towns that we represent, those people who are crying for property tax relief. I haven't seen another bill this session that would provide those towns with that property tax relief. This is the first time. When they asked that question, what have I done for property tax relief? The only thing that I can say is, that I have done my best to make sure that the state hasn't downshifted its costs onto your community. That is the best that I can say. You know, I woke up this morning and the Today Show was on, I was watching the Today Show. What they were talking about was Robert Allen, the chairman of AT & T. What his expected compensation is for this year as chairman for AT & T, \$16 million for being chairman of AT & T. What this bill produces is \$16 million. For some reason, Robert Allen is worth \$16 million, but we can't send \$16 million back to the towns that we represent. I think that we can. Now we developed a formula, Senator Rubens and I developed a formula. We want to send this money back to the towns. Let's give the towns something. When we finish our terms as senators, let's be able to go back to those towns and say that we did something for you. We devised a formula. We have been talking for two years about kindergarten. We have been funding bills with one dollar. We have been talking about taking from poor towns to fund rich towns so that they can have kindergarten. We have been talking about kindergarten incentives, but where are we on kindergarten? We are no further along today than we were two years ago when we started out. We have done a lot of talking, but where are we? The way that we have crafted this bill, is that money would go

back. The formula for distributing money back to the towns as property tax relief, would in part, be based upon kindergarten. Five cents of the ten cents that goes back to the towns, would go back based upon the fact that you have kids in kindergarten. Five to six hundred dollars, somewhere estimated between five and six hundred dollars. If you don't have kindergarten, you don't get the money. It is an incentive. Originally, we started out saying that we were just going to do this for kindergarten, but then a number of towns, a number of people spoke up, and they told us that it isn't just kindergarten that we are concerned about, we are concerned about special education because the cost is so unpredictable. We never know how much it is going to cost us. We would like reimbursement for special education. So we changed the plan. I have to admit that we changed the plan. I am sorry for being flexible. I understand that that doesn't appeal to every lobbyist and special interest, but we changed the plan to make it work. So half of the money goes back to reimburse you for special education costs. This isn't money for kindergarten. This isn't money for special education. This is a reimbursement directly to your municipality. It doesn't go into the educational machine. I know that doesn't please everybody. It goes back to your municipality. It goes back to the people who collect the taxes, your towns, the people who make the decisions. The people who pay the taxes. It is property tax relief. I read in the paper, as I indicated, not every special interest group is happy. I am sorry. But we are not in the business of making every special interest group happy in this state. The bottom line is, if you adopt the provisions of this bill, you will be doing something for the towns that you represent. You have all been provided with a list of how much your towns would receive. All together, about the same as Robert Allen. And rather than read every single town and how much that they would receive, I have asked the Senate President, and I think that he has agreed, that we will just put the list of towns in the Journal and how much each town would receive under the proposal, under the cigarette tax proposal. The other issue, and I think, an issue that shouldn't be overlooked, are the benefits of the tax itself. I read in the Union Leader that eleven cents probably isn't going to discourage smoking, and I happen to agree with the Union Leader. I don't think that eleven cents a pack is going to discourage smoking that much. I understand that there is some argument that it will, but that one cent that will go to tobacco education and prevention, that is worthwhile. It is worthwhile for all of us. We ought to be making that investment. Even if we didn't pass this tax at eleven cents, we ought to pass it for one cent, so that ought to go through, and that ought to happen. In summary, I want to thank you for your cooperation on this. I know that this is a difficult issue. It is a difficult issue for all of us. It is a difficult issue for me, but it is an important issue for me, because this is the only way that I can fulfill my promise. There are going to be people that told you that they promised not to raise a tax. Well I took a promise. I took a promise with every other Republican here, that we would not vote for a broad based tax. That we would not vote for a broad based sales tax. That we would not vote for a broad based income tax. That we would not vote for a statewide property tax. I never promised that I would not increase a tax. And if we did, we have already, all of us Republicans, violated that by now. I urge your support on this bill. I ask for your support on this bill. I know that it is difficult for everybody, but please support this amendment. Thank you.

SENATOR PODLES: Senator Gordon, could you tell us how you arrived at those figures and where did you get these figures?

SENATOR GORDON: Thank you for asking that question, Senator Podles. That is a very good question. As you can see, the city of Manchester would receive about \$1.5 million. In order to be objective about this, rather than to use just arbitrary numbers, we went to the Department of Education and they gave us the statistics that they had for the number of children, from each community, that are attending kindergarten, and the special education costs, based on 1993, 1994 figures. So these figures were provided to us by the Department of Education.

SENATOR RUBENS: I rise to amplify what Senator Gordon has so eloquently stated with so much passion. I encourage the people in the room here. Senator Gordon and I have done some preliminary vote counting and we know where most of you stand, but we ask you to look at this very, very carefully. Look at how this will impact the people in your district and whether they would want you to do this or not. This is \$16 million plus in property tax relief. It is what people have been crying for. I went to fifteen town and school district meetings, as I tend to do each year, and people are up against the wall. We have heard complaints that if we give the towns and cities extra money like this, that they are begging and crying for, that they will spend it on things, that they would just boost salaries and etceteras. The people in these towns and cities are up against the wall, and if there is a single contributing factor toward that, it is the unfunded federal special education mandate. The federal government is reauthorizing the IDEA law, and there is not any prospect of likelihood they are going to fully fund that mandate. The towns and cities do not have control over the \$40 million portion of that mandate that is yet unfunded by the federal government. So what we are doing, is we are taking \$8.4 million, approximately, of this property tax relief, and we are directing it to those towns and cities that have special needs children living with them, to reimburse them for costs that they already must pay. We are distributing it on the basis of hours of service so that towns and cities that, for example, might have four very expensive children move in, in any one year, and it might be a small town. This is a tremendous burden on them, we are providing a mechanism for them to boost the degree to which they can get relief. There are absolutely no strings and no mandates of any kind attached to this property tax relief. None whatsoever. This is absolutely and thoroughly consistent with the way that the New Hampshire people run things. As Senator Gordon stated, it does not please every special interest. Some of them would prefer to have mandates and strings attached to the money so that the towns are forced to spend it in a particular place. We didn't choose to do that. We are also concerned, and the reason that we decided to propose the bill in this form, the pace at which this amendment that we originally proposed and circulated, beginning about a week ago, has been very quick. The support is beginning to pour in from cities and towns. I am certain that some of you are beginning to get letters, just beginning yesterday from some of your mayors and some of your boards of selectmen. I have gotten a couple immediately within one day of the notice of the amendment going out from two of my boards. There was an opinion poll taken about a week and a half ago, where we found that 67 percent of the people in this state support the cigarette tax increase. That is without any indications that the proceeds of the tax increase would go toward property tax relief, kindergarten incentive aid and special education assistance. That is without that, so we would see that 67 percent number boost. We see 72 percent in this opinion poll. We see 72 percent of conservative support the cigarette tax. Sixty two percent of those who described themselves as very

conservative support the cigarette tax increase. Again, this is without the property tax. When you add together the cigarette tax that people support, property tax relief, kindergarten aid, kindergarten incentive aid, the health benefits of the cigarette tax increase of whatever measure they are, they are above zero; in addition, to special education relief, you have overwhelming public support. I listened this morning to a discussion about the pledge on New Hampshire Public Radio, and there was discussion about why we have such a pledge in New Hampshire. I agree with the reasons that we have this pledge. I think that it is a good and a very healthy thing for the state and I am going to take it again right here and right now. I will not vote while sitting in this office, for any broadbase income tax or any broadbase sales tax, nor for any statewide property tax. That is the pledge that I took when I ran for office in 1994, and I intend to stick by it, and it is a healthy and good thing for the state of New Hampshire. This, what we are proposing right here, is not contra indicated by the pledge. When I go back over the critiques that have been leveled, over the plan that Senator Gordon and I have proposed, probably the major one that I have heard, is that this would cause us to break the pledge. I am going to go back over the record of the votes from last year where we have broken the pledge, actually I am just talking about two days back when we voted to increase the bad check fee from 10 dollars to 25 dollars in the municipalities. We did so unanimously with no objection. I am going to go back to last year to the interest and dividends tax change. That was brought out of the Ways and Means Committee on a six to zero vote.

Recess.

Out of recess.

SENATOR RUBENS: In HB 442 last year, additionally, we voted to extend the temporary rates which amounted to a tax increase for the rooms and meals tax, the telecommunication tax and the real estate transfer tax. The vote in this body was 23 to 1. Okay? So in the past, and there has been no reaction, that I have seen, from my constituents in my district, no major outcry from opinion leaders in the state when we did that. So I think that we all understand what the pledge means. The pledge means no new taxes, as distinguished, as my constituents distinguish it from increase taxes, this is the cigarette tax increase. So once again, I would encourage those of you who are concerned about breaking the pledge, to recall the votes that we made last year.

Recess.

Out of recess.

SENATOR RUBENS: I would like to clarify something that I said where it could be misinterpreted. On HB 56 the interest dividends matter. Of course I think that all of us knew that we were under the direction or under the threat of an adverse court decision, and I brought that up because the net impact of that tax was, in essence, to increase revenues to the state. I don't think that we knew that at that time, because we thought that it was revenue neutral. I brought it up because the impact of that act, in response to a threat, by a potential adverse court decision, was to increase a tax on individuals.

SENATOR WHEELER: Senator Rubens, I would like you to double check your information on yesterday's vote on the returned checks of the town clerk, because I know that for a fact, that some senators are recorded against that and would like the record corrected please.

SENATOR RUBENS: I wouldn't know that. The record is not out for my examination; nonetheless, the majority of us did vote for that, I guess was my point.

SENATOR F. KING: I think that my fellow senators know, I have been a good freshman and sophomore and I have spoken very little on this type of issue, but I feel compelled to speak in support of this amendment. I spent last evening in the city of Berlin attending a meeting. I spoke to the city manager and some of the councilmen and I told them that we were considering an amendment to a bill that would potentially generate \$153,000 for Berlin. If there is a community in the state that is in dire straits, it is Berlin. The recent headline in the Berlin Reporter said that 35 teachers will be getting pink slips. There is no doubt that the state has economic problems, we all know that, but I think that sometimes we lose sight of the fact that the communities also have economic problems. I don't buy the argument that you give money to school districts and you give money to the boards of selectmen or city councils and that they are going to waste it. I think that if there is a conservative group of individuals in this state, it is the local officials that are in the towns that we represent. I came down here dedicated to voting in a kindergarten funding bill. I think that is very essential. I think that I signed onto and supported every issue regarding kindergarten that came along. I even voted for the bill that came out of this Senate that was going to give kindergarten for the first year and then forget about it. There is a bill that is floating around that is going to put a dollar . . . I feel compelled to vote in favor of kindergarten. I even did that terrible thing and tried to fund kindergarten with video gambling. So I think that the money that will go to my district, some \$835,000, will be well spent and will not be wasted. I strongly support this amendment.

SENATOR PIGNATELLI: Mr. President and members of the Senate, I am going to be voting for this amendment. I am not only going to be voting for it, I am going to be congratulating Senator Rubens and Senator Gordon for finding a way to allow me to vote on this amendment. When I arrived here this morning and found out that I would not have a chance to vote on this amendment that would send \$1.4 million back to my city, I was very upset. I had a hard time explaining to my mayor, why the Senate was not going to allow me to vote on an amendment that would provide significant property tax relief to my residents in Nashua. Certainly none of the proposals that I have come up with to provide property tax relief over the last ten years, have been passed by the House or the Senate. I see this as a real opportunity for the people in my district to get some property tax relief. This is about one percent of our local budget, and that is mighty nice for my people to hear that they might get a reduction in some property tax or that we might be able to choose some things to fund that we don't fund right now. We took a chance ten years ago, to open kindergarten in Nashua and spend some of our precious tax dollars on kindergarten because it is such an important program. I think that this is a fine way for those districts and those communities that have chosen to already have kindergarten, to be rewarded financially. A good way for those districts that haven't chosen to have kindergarten, to now choose to offer it. So I am happy to vote for this amendment. Thank you very much.

SENATOR COLANTUONO: For the record, I voted against the bad check fee increase that we voted on yesterday. This bill, this amendment, has been touted as property tax relief. It is a very strange way to try to ac-

comply with property tax relief. Property tax relief can be accomplished, but it has to be done in a way in which the money given by the state, goes directly to lower the property taxpayers' bills. I proposed such a measure several years back, in which the mechanism was that the state gave the money out, the excess revenue that it had, after the cities and school districts made up their budgets in the spring. The money then was given out in the late summer or fall so that it went directly to reducing the tax rate as set by the DRA. The bill failed because the proponents of big government didn't like it. What this bill does is to take state revenue derived from increasing the cigarette tax and putting into two different state funds, one called a kindergarten fund, and one called a special education fund, which would lead one to believe that these funds have something to do with kindergarten and special education; however, the amendment then goes on to say, that the money is paid back to the town government and the city government, not to the school districts. This is the most bizarre plan that I have ever seen in six years. The town can take the money and spend it on town purposes, raises for the police department, fire trucks, new roads. None of it has to go back to the school district under this bill. None of it is going to get spent, necessarily, on any school purpose or on property tax relief. Senator George Lovejoy has often talked about the fact that you can't spend a dollar twice. You can't give money back to the towns for property tax relief and then have the town spend it, because then there is no property tax relief, and he is right. Let's talk about kindergarten. The figure commonly used for kindergarten is \$1,200 per pupil. This amendment purports to give an incentive for kindergarten, yet the proponents say that it only gives you back \$600. My three towns don't have public kindergarten. If they were to start kindergarten under this program, they would have to spend \$1,200 per pupil, and the town would get back \$600. If the school districts were lucky enough to get the \$600, there would be a \$600 deficit. This is property tax increase, that is what this bill is. This is a property tax increase bill. I think that it is a bait and switch tactic to tell these school districts that they are going to get relief from federal mandates under special education, when what you are really doing is giving it to the towns and cities. I think that it is always easy. The easiest thing in the world is to vote for increased taxes. There are always good causes to spend things on. But if you have beliefs, and if you have principles, that our people are over taxed and over-burdened already, then you stand on those principles. The principles that you ran on and the principles that you got elected on. That is why I am vehemently opposed to this ill-considered amendment and urge that it be defeated. Thank you.

SENATOR SHAHEEN: I also intend to vote for this amendment. I would like to applaud Senators Gordon and Rubens and Senator Russman for bringing this forward. I have to say that I supported a similar proposal to fund kindergarten through the cigarette tax three years ago when it came up in the Senate; unfortunately, that proposal lost. During my time in the Senate, I have tried to do everything that I could to look at the property tax burden that the constituents in my district are laboring under and to do what I could to provide property tax relief. I supported Senator King's bill that would increase the share of the rooms and meals tax that went back to cities and towns. I have to say, Senator Colantuono, that in doing that, I felt like I was living up to the principles on which I ran. I can also tell you, that I believe, that if we send money back to the towns in my district to go to kindergarten and to go to special education, that that is what those towns are going to do with it. I don't believe that

the selectmen and the city councilors in the communities in my district, are going to vote to buy a new police cruiser or to vote to do something else in town. I believe that they are going to use it for property tax relief, which means that if people don't have to fund kindergarten out of the school budget because they are getting this incentive money, then the school isn't going to have to raise as much money, so the property taxpayers aren't going to have to pay as much. I have also supported in my time in the Senate, every proposal, like Fred King, I swallowed hard and I voted for video poker, because I believe, that we need to fund education in a way that reduces the burden on property taxpayers, and the state isn't doing that right now. I voted for video poker. I voted for every kindergarten proposal that has come before this body, and I intend to vote for this one. You know, I believe that this amendment does both things that I have been trying to do in the Senate. It increases funding for education, and it looks at the property tax burden and tries to reduce that. As an additional incentive to support the bill, it does some other good things. It increases money that goes to fight cancer in the state, which is a significant health care problem, costing all of us a lot of money; hopefully, it will reduce teen smoking, because while I would agree with the Union Leader that an eleven cent tax may not reduce smoking on adults, but one thing that we know, and that is when you increase the costs of cigarettes for teens, you are reducing the number of people who can afford to smoke. So I think that we are going to get those benefits in addition to funding education and reducing property taxes. So I intend to support it. I would urge my colleagues in the Senate to do the same.

SENATOR BLAISDELL: Mr. President and members of the Senate, at the risk of being accused of mooning everybody again, and the fact that I come from that southern part of the state over by the Vermont border that, I guess is a socialist country over there, but somebody, and I think that a lot of us in this room, aren't listening. Don't you realize what is going on in New Hampshire? The fiscal problems that we have in the state of New Hampshire. Do you think for one minute that this bill is going to go anywhere in the House because they've already got plans for other money to spend to balance that budget? Don't you realize that we are about \$100 million out of whack? Sixteen million dollars, Senator Gordon and Senator Rubens, is a lot of money. No question, I commend you for it. You have guts enough to stand up and come up with a plan to be able to relieve some of the problems in my town of Winchester, no question. I have some serious problems there, \$600,000 is going to be lost in the Augenblick Formula or the Merrillblc Formula, I guess that I would call it that now. It would look great if I could hand them a \$105,000 to be able to do what they want in that town. No question about it. But what are we doing? We are giving them that \$105,000 now, and yet when we start cutting that budget, and better you than me, David Currier, I can tell you that. When we start cutting that budget in the next two months, you are going to see some problems that you are going to have to face, and I don't know how you are going to face up to them. The only way that you are going to do it, is if you send that responsibility back to those same people that you are sending this to right now. It costs you a billion or more dollars to educate the kids of this state from kindergarten through twelve, and almost \$800 million of that comes off of the back of the property taxpayers in the state. I suppose \$16 million . . . that is not the answer. You voted for video poker, Senator Shaheen, Senator King, you voted for it and so did I. They said that I mooned over all of the video machines that were going to be put in the tracks and up in the

north country. Yes, if that is what they want to say, fine. There is \$150 million sitting out there that is happening right now all over your state, only you are not collecting that money on it. You should vote for that. You can fund Augenblick, that is what you ought to do. You should fully fund Augenblick at eight percent. Get that money back to the cities and towns. That would mean more to my town of Winchester. You would be able to take some of that money and you should fully fund kindergartens at \$40 million and have some money left over to be able to send back or to balance our budget here in this state. I am called El Bandito that never saw a tax that he didn't like. I have never voted for a cigarette tax, folks. I never have. I really don't intend to today because I don't think that is the answer. I will accept that responsibility when I run for the Senate again, this coming November and June, I am going to run, not for anything else, but again. I will tell you, I have always said, that when I see some of the people that are leaving this Senate, maybe I am not so wrong, I always said that I have been scared as hell because I thought that I was one of the smartest over here, now I am losing some people that are probably a lot smarter than I. But think about this really, we have got to come up with a budget solution first. It is great to be able to send this back. I have been getting the letters, Senator Rubens faxed them to all of my selectmen, to all my city of Keene and I appreciate that. They look at that money and it is great. And they love it. But they are not thinking, because something has got to be done here. We have got to balance this budget first, and maybe last year's budget first, and then to be able to take care of the rest. Think about that. Nobody is thinking. Neal Kurk, gee, I am agreeing with Neal Kurk here, and I am getting scared here, really. But he came before that committee yesterday and told us that we were wrong. That we have serious problems, it is close to \$100 million. Everybody said that I was nuts when I said that it was \$70 million. But it is \$100 million. How are you going to do that, where are you going to get the money and who is going to pick it up? The only way, you send it back home. So you have to think about this a little bit before you do this. It is great, I commend you two for doing it, I think that it is a great thing, but it is not the answer in this state. Really. We have got a revenue problem in this state and not a spending problem. This proves it.

SENATOR LARSEN: It is true that this \$16 million is not going to solve the state's budget revenue problems, but this bill has four good points to it. The first one being the property tax relief that this bill would bring to some of the communities in our state, to all of the communities in our state. I am one of the few who run between the State House and the city council on a regular basis. I know, first hand, the difficulty, as all of you do, who go out and talk to your elected local officials, how hard all of these people are working to keep their budgets down, to the need as you go door-to-door talking to your constituents. The desire, the pleas for property tax relief. This is an opportunity for us to send property tax relief. This is an opportunity for us to say that we trust you, local officials. We trust you not to go increase everyone's salary. We trust you to bring about property tax relief. We talk about local control in this room, and yet, when it comes down to it, do you trust your local officials to bring about property tax relief? Do you really trust them? If you do, send them something to be able to bring about some property tax relief. I am on the local level and we have cut \$4 million out of our budget in five years. It is done to the bone, folks. We can't keep cutting on the local level. I will tell you that the property taxpayers whose doors that I knocked on, they said that they cannot keep paying these property taxes. People in the town of Pem-

broke can't sell their houses because their property taxes are so high. They just cut half a million dollars out of their school budget because they are angry, they can't figure out how to get their property taxes down. We have a real problem here folks and it is the issue of property tax. If you are going to bring about some property tax relief, this is your best opportunity. Now it is interesting in this bill that we actually have four good reasons to vote for this bill. Not only is it property tax relief, but it brings about an opportunity to maybe make some kindergarten happen here. We haven't seen any serious money being put into the kindergarten bills around here. We have a dollar kindergarten bill. We have a bill that says that we will fund six communities that are maybe close to it. We don't have any real money in there yet, to say that this is still a priority for the state. This bill brings about an opportunity for communities that don't have kindergarten to consider putting kindergarten in. It also brings about assistance for communities that are overloaded with special education bills, that is the third important point. The last important point is, it just might bring about a reduction in teen smoking. Now how much do you need from a bill to be able to vote yes? How many times do you have a chance to say that there are four good reasons here, folks. Those were your four good reasons, so think about it. If it were just one alone, if you could bring about property tax relief, if you could bring about teen reduction in smoking, you would be thrilled to be able to vote for that. You should be thrilled to be able to vote that, these four issues, property tax relief, kindergarten, special education and a reduction in teen smoking. I couldn't ask for more in this. I also understand that we won't even see a reduction on the border towns, so the arguments just aren't there, folks. It is time that we sit down and say, there are four good reasons to vote for this, let's do it.

SENATOR J. KING: I have in my terms up here in eight years, not voted for the cigarette tax. My reason for not voting for the cigarette tax is that if you are going to vote for that one being taxed, there are so many other things that you should have equal tax put on the same thing. I don't think that it is fair to the people who do smoke, I don't smoke myself, never did. I tried it once or twice to make sure that I wasn't missing out on anything. But I think that it is unfair to pick out one group and to say that they are going to be taxed, you are going to be taxed because. Chocolate, if you eat too much chocolate it is bad for you. If you drink too much beer, if you drink too much whiskey. You do a lot of things that are ill or bad for your health. The things that are free like exercise, not too many of us do it. I have got a lot of calls and letters which are pro and con. I had several calls from some of the small neighborhood stores and they are not on the border, that are concerned about the tax. I think, in my time up here, too, I have passed, in conjunction with a lot of other cosponsors, the rooms and meals tax. Today, they want to use that, it wasn't earmarked, and I don't like to earmark things, they want to use it for the CenterPlex in Manchester. I had a bill in here earlier this year, where 14 percent of the BPT goes back to the locals on a per capita basis. In conjunction with the prime sponsor, Senator King from the north country, and two years ago, prime sponsored and co sponsored with David Currier, we had video poker machines in there. My feeling is, if you need money, and they tell me that there is all kinds of money there, why not, and if everybody feels that way, I will gladly amend the bill tomorrow or today, and put it so that these machines could be placed at the race track. What do you do when you go down to the race track? It is not a library.

SENATOR BARNES: There are a lot of bookies there, I don't know.

SENATOR J. KING: They gamble. So what is one other form of gambling in a place like that and the money that could be raised. It is all set up and ready to go. I agree with the good points. I have voted for every kindergarten bill that has come down the pike. I will again, but not in this case, because as I said, I cannot see taxing one certain group because of the type of product that it is. The points are good, but the way of taxing it is not. I am against the amendment, and I am against the vote on HB 1344 and HB 1578. I would be very happy if you would give me some kind of indication if you are interested to amend the bill, to put another bill on it. Senator King from the north country can tell you what the number of that bill is and we will tack that onto this bill. It is 666, the devil's bill, huh? SB 666 TAPE CHANGE it wouldn't be affecting any business or any company out there, small or large, and you would have plenty of money to earmark it the way that you want to, but make sure that it gets back to the communities and only for the communities. Thank you.

SENATOR RUBENS: Very briefly, I would like to apologize for my recounting of the vote on HB 1189, this was the ten to 25 dollar municipal bad check fee. There are individuals in this room who did not vote for that. It was a voice vote. So I think that I recounted it, but just in case that I didn't, I know that Senator Wheeler and Senator Colantuono have expressed, and Senator Wheeler has it put on the record, that he voted against that increase. Secondly, if there are problems with this bill, Senator Gordon and I have been listening to people. If there are problems with it, but people have technical problems, it can go to Conference Committee and those can get worked out, so if the objections are constructive, it can be worked out in Conference Committee or Finance.

Senator Barnes moved the question.

Adopted.

Question is on the floor amendment.

A roll call was requested by Senator Gordon.

Seconded by Senator Larsen.

The following Senators voted Yes: F. King, Gordon, Rubens, Stawasz, Pignatelli, Larsen, Russman, Shaheen, Cohen.

The following Senators voted No: Johnson, Fraser, Lovejoy, Currier, Rodeschin, Roberge, Blaisdell, Wheeler, Colantuono, Podles, Barnes, J. King, Danaïs, Delahunty, Keough.

Yeas: 9 - Nays: 15

Floor amendment fails.

SENATOR F. KING: While this bill was passing before, originally, I was talking to Senator Currier and I apologize for that. I just want to point out that what we are doing here with this bill or what we have already done with this bill. We have increased revenue by scratch tickets. We can't talk about gambling, it is bad and it hurts tourism and it does a whole variety of things, and gambling is inherently bad. But scratch tickets, if someone really and truly is against gambling, they have to vote against this bill, because if there is any insidious effect of gambling in this state, it is the sale of scratch tickets. They are in convenience stores, they are in gas stations, I haven't seen any in the restrooms yet, but I expect to very soon. They are in bars. They are in places where they are

not well controlled, kids have access to them. I buy gas in Concord, and I watched a kid who couldn't have been more than fourteen or fifteen years old put a five dollar bill in one of those machines, the clerk was busy taking my money for the gas or selling a loaf of bread or something. So I would have voted against this had I had an opportunity and hadn't been talking to Senator Currier, on the basis that I think that if we really and truly want to do something about gambling, then we ought to get rid of scratch tickets and get them out of these places and find another way to generate revenue, because they really are bad.

SENATOR SHAHEEN: Senator Colantuono, as I look at the fiscal note on this bill, I note that it will increase state revenues and that it restricted revenues and expenditures by \$15 million and that local revenue will increase by \$4.5 million. Can you just explain to me how that is divided up and who the \$4.5 million is going to, and for what, and what the total \$15 million is going to go to?

SENATOR COLANTUONO: The explanation is at the bottom. The \$15 million would be gross sales increase, and lesser is at 70 percent of \$10.5 million, net increase of \$4.5 million, which would be your foundation aid money back to the schools.

SENATOR SHAHEEN: Okay, so the entire \$4.5 million will go back to state aid education?

SENATOR COLANTUONO: Yes.

SENATOR SHAHEEN: Thank you.

Ordered to third reading.

HB 1517-FN-A, an act increasing the cigarette tax and designating a portion of the revenue for cancer-related research and screening and anti-smoking campaigns. Ways and Means Committee. Vote: 5-1. Inexpedient to legislate. Senator Barnes for the committee.

SENATOR BARNES: Mr. President and members of the Senate, in these economic times it would not be appropriate to impose any new taxes on the citizens of New Hampshire or to hurt the small businesses with a loss of retailers. The committee voted 5 - 1 and asks you to vote this piece of legislation as inexpedient to legislate.

SENATOR GORDON: Having gone through the debate that we did on the prior bill, Mr. President, I just want to put on the record, if I could, that I do not support the cigarette tax, if in fact, the ten cents, which is ten of the eleven cents that it would generate, will be plowed into the general fund and will vote against the tax.

SUBSTITUTE MOTION

Senator Keough moved to **substitute ought to pass for inexpedient to legislate.**

SENATOR KEOUGH: Mr. President, I have listened with both interest and admiration to the discussion that we have just heard and I guess like Senator Blaisdell, the thing that struck me as most noticeable about the discussion, is that it didn't seem to be taking place within the context of the fiscal reality of the state of New Hampshire. I would like to spend a couple of minutes talking about what at least this senator believes that reality to be. I understand that there are differing opinions about exactly where we are. I think that there are some facts that are simply facts and we ought to take note of them. In my opinion, the current situation is

not one which ought to require us to panic or to go running to the hills; however, it is a situation that requires our attention, and I believe, some immediate action. Point one is that we are now in mid April and we do not yet have an audited comprehensive annual financial report that has been made available to us from the executive branch. I have not been here a long time, but I have talked to others who have, this is the first time that this has happened. Now this doesn't mean that the books haven't been closed, the books have been closed. But the people of New Hampshire, in addition to the people in this body, do not yet have audited financial statements for the fiscal year 1995. Now the main reason that we don't have the audited capper is that we all know that there is a question surrounding \$20 million in Medicaid enhancement monies for fiscal year 1995. The governor was kind to brief us, the House Finance Committee and the Senate Finance Committee in early March. At that time, the expectation was that this problem would resolve itself by mid March and that would put us in a position to have financial statements made available to the public by the end of March. It is now mid April. The \$20 million Medicaid enhancement problem has not resolved itself. I hear mixed signals on the likelihood that it is going to be resolved soon. On that point, I would say simply this; everybody who goes around saying that government ought to run more like business ought to recognize that at least in the case of publicly traded businesses that I have been familiar with, you don't get to not issue your financial reports, your audited financial reports. You can argue with your auditors, you can kick your auditors out and try to find new auditors, but 90 days after your fiscal year closes, you need your report. That would be a first step in the accountability in government if we played by the same rules. The second point that I would like to make is, we can argue and debate about how big the problem is, but we know as we sit here today, that our revenues for FY 96 are \$30 million behind the mark. Whether that translates over the remainder of the biennium to a \$60 million problem, as the House Division II of the House Finance Committee recently estimated, or if it turns into a \$100 million problem, as my good friend from district 10 has estimated, I don't know, but I do know that where we are today is \$30 million in the hole on revenues. In my opinion, that is not a small number. The final thing that I would add is that part of the budget assumptions, include a four and a half lapse number among our state agencies, now there is some justification, I believe, for going above the historical level of 3 percent. I am now hearing that perhaps 4.5 percent is not realistic especially in light of some of the transfers that are going to be coming forward from the Department of Health and Human Services. Four and half percent is about \$18 or \$19 million lapse number. If that number is in fact \$5 million lapse number and add \$13 to the problem. So we at least have a \$30 million problem today if you add the \$20 million Medicaid problem from 1995, if we have a lapse problem, that could very well be \$50 - \$60 million problem, just today. The question is, what do we do about it? I would argue that the strategy that we seem to have adopted right now is to do nothing. Doing nothing by default is a deficit spending strategy. If we adopt that strategy, that would be the first time that this state has adopted it as a strategy. I don't believe . . . we hear from our constituents about property taxes, that is not a new issue and it is a real issue, and I hear it, too, but our constituents also watch what is going on in Washington and they see the mess that has been created down there and I think that they take some pride in the fact, that we have never run our state that way. We may have ended up in that

situation from time to time, but we never did it as a willful strategy. I don't think that they want us to start now. We can look in three areas, we can look at doing nothing, and I don't think that it is really the intent of people in this legislature to do nothing. I think that one of the difficulties is that the interplay between the federal government and the state government is very complicated and it changes all of the time. I think that people hope, and there is a reasonable expectation that something might happen at the federal level that will take us out of this situation. But sitting here with the first of the two years of the biennium just about behind us, I think that we have done enough hoping and it is time to do some acting. We hear a lot of talk about cutting spending, and I don't think that this body needs to be lectured about cutting spending. I was a very active participant in the budget process, and I can tell you that I was very proud of the Senate on the tough spending decisions that it made. We had a budget that came into us from the House that started out with the Governor's recommendations, I think that the governor proposed a good budget, but I will tell you that the Senate passed a budget with more specific spending cuts than the budget that came into us. So nobody needs to take a lecture from anybody about cutting spending in the pursuit of fiscal responsibility. That brings us to revenues. I believe that we are at the point where the most prudent thing that we can do, based on the information that we have today, and based on the tools that we have available to us today, is to increase the cigarette tax, and to use the revenues to put our financial house in order. I would disagree with my good friend Senator Colantuono. I don't think raising a tax is easy. I think the easy thing to do is to ignore a situation that requires action. That is the easy thing to do. I made a pledge with my good friend Senator Rubens. I made the same pledge. I pledged to oppose a broad based income tax or a broad based sales tax or a statewide property tax. But when I made that pledge, I also knew that I had a responsibility to do the things that were necessary to make that pledge a reality. Just as people have had to do, who have been involved in this legislature, who have sat in the governor's seat, for years and years and years before us. Lest anyone in here forget it, our legacy isn't something that we created, it is something that we inherited. The people who left it to us had to make lots of difficult decisions that they would rather not have made and would rather not have gone back to their constituents to explain. I believe that this is one of those decisions. I did not support the kindergarten amendment because I think that it would be wrong to raise the money with one hand and spend it with the other in light of our current financial situation. Now you might ask, gee why would we do this if maybe the federal government will take an action. Maybe the federal government will sign a pass block grant legislation, maybe the President will sign it, maybe we will get a 60 - 40 split on Medicaid. Maybe it will be awash in cash. We don't have to spend it and I would argue that we shouldn't spend it. If we increase this tax today, and we start taking the steps that we can take to put our financial house in order, and then something happens at the federal level, and we find ourselves in a surplus situation, I would argue that at that time that we consider what we want to do. We can consider the option of funding kindergarten, we consider the option of property tax relief through revenue sharing or we can consider the option of cutting taxes. Wouldn't that be nice? I doubt that while we are looking at the option of cutting taxes and we are looking at the business profits tax, and we are looking at taxes on personal savings, the interest and dividends tax and we are looking at the cigarette tax, I doubt if

there are people even out there saying, "the first thing that we ought to cut is the cigarette tax." I would be very surprised if that happens. So I urge the Senate to face reality. It isn't pretty, but the people who sent you here sent you here because they knew that you could make choices that work for them. I urge support for this motion of ought to pass. Thank you, Mr. President.

SENATOR RUSSMAN: I rise for a little different reason, but in support of Senator Keough's substitution motion of ought to pass. I think that when we talk about facing reality and that type of thing, I think that we also need to look at what these things do for our constituents. As a practical matter, I would tell you this, my dad was a physician, his brother was a doctor, his son became a doctor, his daughter married a doctor, matter of fact, my brother is a doctor and a lawyer both, and I, in all honesty, had hoped to go on to medical school after I got out of law school, but that didn't come to pass. Part of that interest in medicine has always made me look at the health aspects of some of the things that we get involved with. We talk about not voting for certain things like we don't vote for gambling because it is not good for New Hampshire, it is not good for the people. Well cigarettes are killing the people in my district certainly, and I suspect that they are also killing some of your constituents. Some of the money that was used here, unlike cigarettes, I don't think the chocolate is doing that much of a job. But I think that as a practical matter, to say that this is a good pro-family thing to vote against the tax or that we should not support this measure for one reason or another, I think that the bottom line here is, these cigarettes and the money that it would raise would certainly help, even the price when you say that it may not deter anybody, and it may not, but the educational aspects of the money that would be used for it, I think is something to stop young people from smoking. I have a son in college who has just graduated and I have another one who has just graduated from high school and they say that a lot of kids, both in college and in high school smoke, a lot of kids. For that reason alone, if for nothing more, I certainly intend to vote for a rise in the cigarette tax.

SENATOR RUBENS: I would like to rise in support of Keough's alternate motion. I am persuaded by this articulate and rational presentation. A rare quality that he is leaving office, so he can afford to do that, he can afford to be rational. There is a reason for doing this even if you are concerned about the state not needing the revenues. There are social burdens imposed upon society, paid for by the state of New Hampshire and the federal government, imposed upon state taxpayers who do not smoke by the people who do smoke. The recent settlements by attorney generals for prospective settlements by attorney generals discloses the huge sums of money imposed upon society by people who choose to smoke that we are paying for. So this is in essence on the one hand, a partial user fee, if you want to look at it that way. Therefore, I urge adoption of the substitute motion of ought to pass.

SENATOR BLAISDELL: Senator Rubens, when you considered this cigarette tax, two of the greatest killers in the world are booze and tobacco. Did you consider taxing booze?

SENATOR RUBENS: We are talking about this particular bill, 1517-FN. I don't have information that booze is not taxed high enough to reimburse, its social cost. But we know as a matter of fact, that the cost of

cigarettes imposed upon our taxpayers in this state, by people who choose to smoke, are not fully compensated by the existing present level of taxation.

SENATOR BLAISDELL: Would you believe that any kind of liquor that is sold in the state of New Hampshire, nothing goes back for the treatment of these people that we hooked on booze? Would you believe that?

SENATOR RUBENS: I don't believe that, no. There are federal monies raised by those taxes that are sent back for drug and alcohol abuse prevention programs. But I don't know the extent to which social cost imposed by liquor consumption are uncompensated. I don't have information on that.

SENATOR BLAISDELL: I would be glad to give them to you.

SENATOR ROBERGE: Senator Rubens, you stated a figure of \$16 million, have you taken into consideration that maybe there may be some loss of sales in the border towns if you increase the tax on cigarettes?

SENATOR RUBENS: Yes. To some extent, that is one of the benefits of this program, minor potential losses of sales, although I have seen contradictory data. I have seen some data saying that there would be no loss of sales. For example, Vermont's recent experience with its cigarette tax increase; however, one of the social goals of this is to suppress, and the DRA has indicated that there would be a 3 percent drop in consumption of cigarettes and that is potentially a good thing.

SENATOR SHAHEEN: Senator Rubens, you made mention of what happened in Vermont when they raised their cigarette taxes. Isn't it true that there was a lot of feeling in New Hampshire that when Vermont raised their cigarette tax, that in fact, it would increase New Hampshire's revenues in the border communities?

SENATOR RUBENS: That expectation was unfulfilled, apparently.

SENATOR SHAHEEN: That is correct, and in fact, if we look at the revenue figures for cigarettes for the year to date, they have actually dropped in a number of months, and they have not increased, based on what happened in Vermont. So isn't it reasonable to think that the dire predictions about what the impact of this increase would be in the border communities are over blown, and that in fact, it is probably going to have very little impact?

SENATOR RUBENS: I have seen no evidence that I find to be persuasive that there will be any dire impacts as a result of this change.

SENATOR CURRIER: Senator Rubens, if the concern relative to the border traffic, I mean, ten-year-olds don't have drivers licenses so they don't cross the border to buy their cigarettes, okay? But where is the \$2 million surplus on the projected revenue from the cigarette tax that we are shying out, where is that problem?

SENATOR RUBENS: Independent of the question before us today.

SENATOR CURRIER: Independent of that?

SENATOR RUBENS: Independent. The net impact of an 11 percent per pack increase in the cigarette tax will be to increase revenues to the state and to provide funding for anti-cancer and anti-smoking campaign, it is that simple.

Senator Barnes moved the question.

Adopted.

This question is on the substitute motion of ought to pass.

A roll call was requested by Senator Wheeler.

Seconded by Senator Cohen.

The following Senators voted Yes: F. King, Rubens, Pignatelli, Larsen, Russman, Shaheen, Keough, Cohen.

The following Senators voted No: Gordon, Johnson, Fraser, Lovejoy, Currier, Rodeschin, Roberge, Blaisdell, Wheeler, Stawasz, Colantuono, Podles, Barnes, J. King, Danaïs, Delahunty.

Yeas: 8 - Nays: 16

Substitute motion of ought to pass fails.

Question is on the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

Senator Keough is in opposition to the motion of inexpedient to legislate on HB 1517.

TAKEN OFF THE TABLE

Senator Rodeschin moved to have **HB 1620**, an act relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas, taken off the table.

Adopted.

HB 1620, an act relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas.

Senator Roberge offered a floor amendment.

5782L

Floor Amendment to HB 1620

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas, authorizing the services of a consultant to develop a prototype lease and making an appropriation therefor.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Lease Agreement; Terms. Amend RSA 12-A by inserting after section 29 the following new section:

12-A:29-a Lease Agreement; Terms. The department of resources and economic development shall develop a lease agreement which shall include the following terms in the event that the state enters into an agreement to lease Cannon Mountain or Mount Sunapee ski area, or both:

I. The terms of the lease, including length, fee structure, methods used to determine the fee structure and shall measure the amount of fees to be paid and default conditions.

II. The assets that would be included in the lease, i.e. what is included in the lease and what is not, how these assets would be transferred or sold to the lessee, determine the value of the assets, and requirements to regularly value the assets.

III. Investment requirements upon the lessee. The lease shall include provisions to ensure that the lessee shall prepare a master plan that fulfills an obligation to maintain and upgrade the assets on state land.

IV. Environmental regulations and controls including:

(a) Prototype regulations to preserve and protect state land which shall include but not be limited to:

- (1) Soils;
- (2) Water quality;
- (3) Wetlands;
- (4) Wildlife habitat;
- (5) Scenic and aesthetic qualities; and
- (6) Multi seasonal recreational opportunities.

(b) Procedures to follow when the lessee requests a permit to replace major equipment (such as a lift) or expand the ski area, cut new trails, increase snowmaking or alter master planning requirements.

V.(a) The role of the state in the on-going lease of the ski areas, including the states regulatory authority and power.

(b) The establishment of a prototype commission to oversee and administer the lease.

(c) The operational responsibilities remaining with the state and how these responsibilities would interact with the lessee's responsibilities.

VI. The disposition of employees employed by the ski areas including:

(a) Transfers within the department or the state.

(b) Offering employees the option of being bought out.

2 Reporting Date and Sunset of Committee Extended. Amend 1995, 241:5 and 6 to read as follows:

241:5 Report. The committee shall submit a report of its findings, including recommendations for legislation, to the speaker of the house, the senate president, the house clerk, the senate clerk, the governor, and the state library, no later than [November 1, 1995] **November 15, 1996**.

241:6 Sunset of Committee. The committee shall terminate on November 1, [1995] **1996** or when the report is filed.

3 Consultant. To facilitate the preparation of the prototype lease the department shall employ the services of a qualified consultant with demonstrated experience in ski area planning, development and appraisal.

4 Appropriation. The sum of \$15,000 for the fiscal year ending June 30, 1997 is hereby appropriated to the department of resources and economic development for the purpose of compensating the consultant pursuant to section 3 of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

5 Funds. The department of resources and economic development is authorized to transfer existing funds, accept any gifts, grants, donations or any other moneys made available to the department for the purpose of offsetting any costs associated with the study authorized in 1995, 241.

6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

(1) Clarifies what information is required to be included in any contract to lease the Cannon Mountain and Mount Sunapee ski areas.

(2) Extends the reporting date of the committee established in 1995, 241:2 to study the feasibility of leasing the Mount Sunapee and Cannon Mountain ski areas.

(3) Authorizes the department of resources and economic development to accept any made funds made available to the department for the purpose of offsetting any costs associated with the study.

(4) Appropriates money to the department of resources and economic development to pay the costs of a consultant.

SENATOR RODESCHIN: I apologize for having this on the table and coming up late. The amendment that is being passed out to you is the bill. It does four things, it clarifies the information that DRED will come up for a lease for Cannon Mountain and Mount Sunapee, it extends the reporting committee that was established in 1995 and it also authorizes DRED to make funds available to accept any funds available for the study and number four, Senator King's amendment to appropriate \$15,000 for a consultant. If you approve of this it will go to Finance.

SENATOR F. KING: This bill is a result of a study committee that went on through the summer. The issue being whether the state should continue to operate the two state ski areas, being Cannon Mountain and Mount Sunapee. The committee report recommended that DRED prepare a lease for consideration by the committee. My concern is that we are talking about two of the most valuable pieces of property that the state owns, one of which I drive by three or four times a week. I think that before we enter into that lease that we need to know exactly what we are doing. We need to know what the lease conditions are, we need to know what we are leasing, we need to know the terms of the lease. The testimony was that probably if we leased this property, it would be at least for 40 years. That seems to be the period that the federal government does when they lease areas of land for ski areas. The Old Man of the Mountain looks down on Cannon Mountain. That property is probably the most valuable public property in the state. We spend hundreds and thousands of dollars to study the reorganization of the Health and Human Services Department, I think that we can spend \$15,000 to make sure that before we lease this property that it has been prepared by someone who understands the issues. There is a company that is experienced in this that submitted to the study committee the price of \$15,000. They may not be the one chosen to do it, but someone is available with experience to do that job. So I think that before I can vote to lease that property, I have to know and have the questions answered and I think asking DRED to do that without some experienced help to do that, I think, is an inappropriate way to do it. I would encourage you to pass this bill with amendment.

SENATOR SHAHEEN: Senator Rodeschin, if we adopt this bill, we are not committing the state to a lease for Cannon and Sunapee, are we?

SENATOR RODESCHIN: Absolutely not. TAPE INAUDIBLE whether it was a good deal to lease the mountain, so that was the report of the committee, to have DRED come up with what would a lease look like, addressing certain questions, the criteria that is in the bill. Then the study committee would get together again to look at it and see if it is an appropriate thing to do for the state.

SENATOR SHAHEEN: If the study committee recommended a lease arrangement, would that have to come back to the legislature for approval?

SENATOR RODESCHIN: Yes it would.

Floor amendment adopted.

Referred to the Finance Committee (Rule #24).

RECONSIDERATION

Senator Russman having voted with the prevailing side, moved reconsideration on **HB 1582**, an act authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures, whereby we ordered it to third reading.

Adopted.

HB 1582, an act authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures.

SENATOR RUSSMAN: Yesterday we forget to vote on the committee amendment before we voted on the amendment which we brought in, we thought that it had already been voted on, so we need to go back and vote on the original committee amendment.

Question is on the committee amendment.

Amendment adopted.

SENATOR SHAHEEN: Senator Russman, since we don't have that bill in front of us, could you just briefly tell us what is in it and what was in the amendment that we forgot to vote on?

SENATOR RUSSMAN: Yes. That was expediting permits for towns and municipalities on dredge and fill. That was what the gist of the bill was. The committee amendment, actually the one that we didn't vote on was the one on ponds, fire ponds for the farmers, in terms of giving them an exemption to clean out their ponds.

Ordered to third reading.

5749d

Enrolled Bill Amendment to HB 1107

Amend section 1 of the bill by replacing lines 1 and 2 with the following:

1 OHRV Operation. Amend RSA 215-A:29, I and II to read as follows:
Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1152, relative to periodic payments of judgments by civil defendants.

HB 1175, repealing the law requiring general court members to list emergency interim successors, repealing the law establishing a joint committee on implementation of reorganization relative to the executive branch, and allowing the governor to appoint a designee on the local government advisory committee.

HB 1211, prohibiting the denial of insurance coverage based on the perception or possibility that the prospective insured is a victim of domestic abuse or violence.

HB 1329, relative to the regulation of massage therapists.

HB 1346, relative to notice of benefits charges, maximum weekly benefits, and penalties for failure to disclose a material fact under the unemployment compensation laws.

HB 1443, relative to the applicability of the meals and rooms tax.

SB 527, establishing a committee to study methods of promoting competition among water utilities.

HJR 21, urging Congress to abolish the federal Department of Education.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

HB 1120, allowing towns to adopt a warrant article to accept personal property donated to libraries.

HB 1301, relative to adoption procedures.

HB 1287, allowing federal income tax withholding from unemployment compensation.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1345, relative to the definition of "unemployment" for the purposes of unemployment compensation, relative to the weekly benefit amount schedule, and designating a portion of the employer contribution to the unemployment compensation fund.

HB 1496, permitting an authorized agent of a veterinarian to dispense noncontrolled prescription drugs.

SB 500, relative to the purchase of paper products by the state.

HJR 26, urging the United States Postal Service to issue a stamp to honor Maxfield Parrish.

Senator Currier moved adoption.

Adopted.

ANNOUNCEMENTS RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn; we adjourn until Thursday, April 18, 1996 at 10:00 a.m.

Adopted.

LATE SESSION**Third Reading and Final Passage**

HB 345-L, an act relative to voluntary payments in lieu of taxes and establishing a committee to recommend legislative changes regarding voluntary payments in lieu of taxes.

HB 473-FN-A-L, an act establishing the distance learning commission.

HB 1138, an act requesting the judicial council to study issues regarding jury duty.

HB 1173-FN-L, an act relative to juvenile court proceedings and victim's rights in the context of delinquency proceedings.

HB 1177-FN, an act relative to the state board of licensing for foresters.

HB 1186-FN, requiring the executive director of the department of fish and game to adopt rules regulating fishing tournaments, including rules regarding waivers of tournament fees.

HB 1196, an act relative to the statute of limitations on claims under the consumer protection statutes.

HB 1212, an act relative to the powers of trustees under the Uniform Trustees' Powers Act.

HB 1270-L, an act allowing school administrative units to establish advisory budget or finance committees under the municipal budget law.

HB 1291, an act relative to vandalism and criminal mischief.

HB 1300, an act relative to the enforcement of zoning regulations.

HB 1332-FN, an act requiring financial institutions to display certain information on fees, charges, and available products in their lobbies.

HB 1344, an act providing for an increase in the maximum cost of sweepstakes tickets and relative to the assignment of lottery prizes.

HB 1357, an act relative to court decrees in title disputes.

HB 1394, an act establishing a committee to study the reporting of medical test results to health care consumers.

HB 1415, an act relative to the confidentiality and maintenance of adoption records.

HB 1450-FN, an act relative to postsecondary educational assistance for members of the New Hampshire national guard.

HB 1472, an act establishing a committee to study ways to enhance the postsecondary education system so as to attract European businesses.

HB 1474, an act relative to legal name changes by individuals.

HB 1488, an act relative to the New Hampshire bankruptcy laws.

HB 1530-FN, an act authorizing the executive director of the department of fish and game to regulate the taking of deer and moose and permitting the director to adopt rules relative to a registration agent's fees.

HB 1543, an act relative to the confidentiality of records and information collected pursuant to the registration of sexual offenders.

HB 1572-L, an act recodifying and revising the solid waste laws.

HB 1580-L, an act allowing landowners to convey discretionary easements in certain land to the municipality in which the land is located and relative to taxation of land subject to such discretionary easements.

HB 1582, an act authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures.

HB 1593-FN, an act establishing a joint legislative committee to study the state investigation of the late John C. Fairbanks.

HB 1610-FN-L, an act relative to school administrative units.

HB 1633-FN-L, an act relative to solid waste management.

Senator J. King moved that the Senate now adjourn until Thursday, April 18, 1996 at 10:00 a.m.

Adopted.

Adjournment.

April 18, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

In the politics of a democracy, true greatness is not found in how well you represent those who voted for you, but rather in how you go about representing those who didn't. By the way, it is exactly the same way for lobbyists.

Lord of all, drive with Your gentle insistence these twenty-four senators, as well as those around here with orange badges, to remember to represent us all, not as political doormats or chameleons, but rather as men and women with enough vision and enough humility to be able to see the truth that is wider, broader and deeper than even their own opinions.

Amen

Senator Lovejoy led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled Bills sent down from the Senate:

HB 471-FN, relative to the department of corrections, including a corrections impact statement, abolishing the division of adult services, and changing the title of the warden of the department of corrections.

HB 477-FN, regulating motor vehicle leasing.

HB 1129, relative to the Laconia airport authority and relative to the Manchester airport.

HB 1151, relative to penalties for persons convicted of class B misdemeanors and violations and relative to parole revocation hearings.

HB 1180, relative to the rulemaking authority of the commissioner of transportation relating to the turnpike system and relative to the duration of state registration certificates.

HB 1210, amending the workers' compensation law to provide an exemption from coverage requirements for nonresident employees.

HB 1302, establishing a committee to study methods of improving telecommunication services to the North Country and other rural areas.

HB 1315, relative to the use of certain products containing phosphates.

HB 1434-L, establishing a committee to study the issues surrounding the definition of "facility" for the purposes of eligibility for property tax exemptions for water and air pollution control facilities.

HB 1492, authorizing a city, town, or the state to allow the operation of OHRVs on certain sidewalks.

HB 1498-FN-L, requiring the commissioner of administrative services to purchase electricity through the competitive bidding process.

HB 1522-FN, establishing a committee to review the medicaid rate setting methodology.

HB 1548, relative to county attorneys.

COMMITTEE REPORTS SPECIAL ORDER

HB 1525, an act relative to damages in suits brought by administrators of an estate. Judiciary Committee. Vote: 4-2. Ought to pass. Senator Cohen for the committee.

SENATOR COHEN: This bill authorizes the surviving spouse of a wrongful death victim to recover damages for the loss of comfort, society and companionship of the deceased. It amends New Hampshire statutes which currently do not allow compensation for a person whose death is caused by wrongful action, although New Hampshire law currently allows it for persons injured by the wrongful actions of another, then you may recover. This rights a wrong. I think that we would all agree that if a person is injured by the wrongful actions of another, it is right that his or her spouse may recover from the wrongful party, for the impact of those injuries on the marital relationship, including the loss of comfort and companionship. Right now, if a wrongdoer's actions result in the death of that person, his or her spouse may not recover from those losses, which is a more significant loss. This works a great unfairness. The individual who suffers the greatest emotional loss, the widow or widower is compensated the least. If you or I were to die as a result of negligent or wrongful behavior of another, would we not want our most beloved ones to be able to recover for the emotional loss resulting from our deaths? HB 1525 was supported by the House Judiciary Committee and passed in the House on a consent calendar. I hope that you will join me in supporting this very much needed legislation. Thank you.

SENATOR PODLES: I am opposed to HB 1525 because it goes against all of the tort reforms that we have worked for, for more than ten years. HB 1525 establishes a new cause of action in civil litigation. It will allow for a surviving spouse to recover for the loss of society, comfort and companionship in a wrongful death case. It sometimes is called a loss of consortium. This is to be recovered by a surviving spouse beyond the point presently recognized by New Hampshire law. Under the present law, a surviving spouse's right to damages for such loss of consortium, does not extend beyond the death of the other spouse; however, under this bill, the right to such damages would be extended beyond the death of the other spouse, presumably, for the full life expectancy of the surviving spouse. Recovery of such damages would apparently be allowed even if the deceased spouses were not living together at the time of death and

without regard to the likely duration of the marriage or potential marriage of the surviving spouse. This bill runs contrary to New Hampshire's recent tort reform litigation which has attempted to put some limits on tort recoveries for noneconomic loss. In many cases this bill could result in multiple lawsuits, including suits by the estate of the decedent and the surviving spouse, thereby increasing the burden on our court system. Furthermore, it would contradict the conclusion reached by the New Hampshire Supreme Court that allowing additional noneconomic damages for wrongful death is bad public policy. Two court cases in *Archie versus Hampton*, 1972 and *Siciliano versus Capital City Shows, Inc.* in 1984. The New Hampshire Supreme Court has stated that the additional noneconomic losses cannot properly be compensated by money damages, they are emotional in nature and are difficult to define and quantify. They could lead to disproportionate awards, hinder settlements, and result in increased expenses, thus increasing insurance premiums or leading people to go without insurance. While this bill would benefit claimants' lawyers by providing larger legal fees, it will not benefit our courts or the citizens of New Hampshire. There have been repeated refusals to change the existing law. In 1988, HB 871 and in 1989, HB 367, but the legislature refused to adopt legislation expanding damages for noneconomic loss in wrongful death cases. In 1991, SB 81 was referred to Interim Study in the House Judiciary Committee after reviewing the adequacy of the current law and the additional costs to the citizens of New Hampshire, the committee recommended inexpedient to legislate. The full House accepted the unfavorable report and killed the bill by voice vote, for the same reasons HB 1525 should not be enacted now. It is not consistent with New Hampshire's efforts to keep a reasonable lid on tort damages. Should damages for post death loss of consortium be allowed, the bill would need clear guidelines to assure that any damages awarded were limited to situations where the spouses were actually living together at the time of the deceased spouse's death, that damages would be allowed only for the period the marriage was likely to endure, that damages would cease to be payable if the surviving spouse remarried. The damages would be limited in total amount. This is something that the bill does not have. We do not have any guidelines in this bill. HB 1525 opens the door for runaway verdicts which will increase the cost of doing business. It will move us as a state in the wrong direction. Please consider all ramifications of HB 1525. I urge that you vote against ought to pass.

SENATOR COHEN: Senator Podles, I am wondering if you support current New Hampshire law which says that if a person is injured as a result of the wrongful actions of another party, his or her spouse, under current New Hampshire law, may recover from the wrongful party, for the impact of those injuries on a marital relationship. Do you support that?

SENATOR PODLES: I support that.

SENATOR COHEN: Yet you do not support this. So it is better if a wrongful action results in the death of someone than the injury? I find that hard to accept.

SENATOR PODLES: They are compensated, Senator. They also have lawsuits on estates and whatnot, so they are compensated, and this is something that we tried to avoid for the last ten years. It would make a difference if this bill passes in the state of New Hampshire. Things will be a lot different.

SENATOR COHEN: You suggested that you are concerned about runaway verdicts, this is a conservative state. The courts and the jury system in this state do not have a record of runaway verdicts. I think that we can trust the judicial system right now. We don't have a record of runaway verdicts, as you say.

SENATOR PODLES: Senator, I agree with you that up to this time, we have a very good record in the state of New Hampshire, but should this bill pass, it will change.

SENATOR RODESCHIN: Senator Podles, is the President of the United States looking at tort reform, including Congress?

SENATOR PODLES: He certainly is.

SENATOR RODESCHIN: Then why is the state of New Hampshire wanting to put in a new catagory?

SENATOR PODLES: That is a good question, Senator, I really don't know why they want to change.

Adopted.

5792L

Floor Amendment to HB 1525

Amend the bill by replacing section 1 with the following:

1 Damages for Wrongful Death. Amend RSA 556:12 to read as follows:
556:12 Damages for Wrongful Death, Elements. If the administrator of the deceased party is plaintiff, and the death of such party was caused by the injury complained of in the action, the mental and physical pain suffered by the deceased in consequence of the injury, the reasonable expenses occasioned to [his] *the* estate by the injury, the probable duration of [his] life but for the injury, and [his] *the* capacity to earn money during [his] *the deceased party's* probable working life, may be considered as elements of damage in connection with other elements allowed by law, in the same manner as if the deceased had survived. *In addition, the trier of fact may award damages to a surviving spouse of the decedent for the loss of the comfort, society, and companionship of the deceased; provided, that such damages may be awarded only if the surviving spouse was cohabiting with the decedent at the time of death, that such damages shall be allowable only for the period of the probable duration of the marriage but for the decedent's untimely death, and that if such damages are awarded, they shall be payable in equal annual installments derived by dividing the amount awarded by the number of years of probable duration of the marriage, such payments to cease if the surviving spouse dies or remarries and in no event to exceed the total amount of \$50,000.*

SENATOR PODLES: Mr. President, my amendment limits such recoveries subject to the courts' evaluation of the claim loss and it will be subject to a \$50,000 maximum. So I have a cap on this bill of \$50,000.

SENATOR COHEN: I can't help but be confused here, Senator Podles. Earlier you said . . . well I got the impression that you didn't think there were damages that should be compensible, and now you are saying that there are damages. Before you were saying that there weren't any damages that one should be able to sue for, now you are saying that there are damages, but we should have a cap on them? I am a little confused here?

SENATOR PODLES: I don't want the bill to pass in this form, and so I am offering an amendment and putting a cap on \$50,000.

SENATOR RUSSMAN: I rise in opposition to the cap, and I also rise in favor of the bill. I think that it is important to keep in mind that we are here to protect the rights of our constituents. We are here because we believe in the system of justice that we have here in New Hampshire particularly. There has been no evidence of runaway verdicts in this state as opposed to some of the states in the west. I think that what you have to keep in perspective here, is what is the value of somebody who has been killed in terms of their companionship, their friendship, the hand on your shoulder when you are ill, for somebody to literally get you a cup of tea, believe it or not? What is the value, right now, if somebody is injured, you can recover for that. You can actually recover if your spouse is not able to care for you, is not able to help you, is not able to talk with you or to give you the comfort that you might normally have. As you get older, perhaps, as you get much older, perhaps you come to count on that after many years of marriage, that becomes a significant part of your relationship, perhaps the entire part of your relationship that the warmth that is there, the friendly smile, the time that you spend together in terms of companionship. It seems absurd to me, absurd, that we would say to our constituency, that that has no value. Particularly as the marriage becomes more long term and so on. Perhaps you may like to take a walk with your spouse, maybe that is meaningful for you. Maybe you would like to go for a ride in the car on some Sunday afternoon, and maybe there were times when you see something that was so beautiful that you would say to yourself, with your spouse, I wouldn't trade this for how much? Okay, how much wouldn't you trade that for, that vista that you might see, that perhaps, deer in the field or what have you that you want to have your spouse there to share that with you. Now I ask you, is that the type of thing that you want to let this legislature as politicians, make a decision as to what it is worth, or do you trust that your fellow citizens, the juries in this state to come up with what a reasonable figure is on that value, after hearing all of the evidence and all of the testimony in a case? I am amazed to think that you can actually cap what that friendship, what that companionship, that warmth is worth, particularly as we get older and we have been married for a long time. So I would urge you to defeat the idea of a cap and try to say that it is only worth up to a certain amount of dollars. I also think that we ought to get on with the business and pass this legislation.

SENATOR SHAHEEN: Senator Russman, isn't it true that according to the bill, we are not talking here about an accident, we are talking about a situation where somebody has been found to be guilty of contributing to the death of that spouse?

SENATOR RUSSMAN: Yes, absolutely. That makes it even worse. That is the part that I can't believe that we would even be debating this.

SENATOR RODESCHIN: Senator Russman, what is the value in a bag of money versus the arm on the shoulder? What is the value of that? Does that bag of money take care of the arm on the shoulder?

SENATOR RODESCHIN: As you know, in our system of justice, unfortunately, you can't put people back together. The only way that we have to compensate people, is with money, that is the only way that we, under our system of justice, have been able to come up with. But I trust the juries in this state, my fellow citizens, my constituents, to come up with

what is fair and reasonable on a case by case basis and let the people take their problems to the courts and let them have access to the courts and let the juries decide what is fair and reasonable, not some bunch of politicians here sitting in the State House decide what is fair and reasonable under a circumstance that we have no knowledge of what the facts are.

Floor amendment fails.

Question is on the committee report of ought to pass.

Adopted.

Ordered to third reading.

Senator Wheeler in favor of floor amendment on HB 1525.

HB 580-FN, an act allowing the formation of and regulating limited liability partnerships and providing for registration fees. Banks Committee. Vote: 6-0. Ought to pass with amendment. Senator Fraser for the committee.

5758L

Amendment to HB 580-FN

Amend the title of the bill by replacing it with the following:

AN ACT
allowing the formation of and regulating limited liability
partnerships, providing for registration fees, and
relative to the application of the real
estate transfer tax.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Applicability of Tax to Certain Transfers. Amend RSA 78-B:2 by inserting after paragraph XVI the following new paragraph:

XVII.(a) To a transfer of title from an entity, the ownership of which is represented by transferable interests, to another entity, the ownership of which is represented by transferable interests, provided that:

(1) The transfer of title is coincidental to a change in the transferor entity's form of organization to that of the transferee entity;

(2) As a result of the change in the transferor entity's form of organization, the assets and liabilities of the transferor entity immediately preceding the change in form of organization and the assets and liabilities of the transferee entity immediately following the change in form of organization are the same; and

(3) At the time of the transfer of title, the owner or owners of the transferor and the owner or owners of the transferee, and the respective ownership percentages of each, are identical.

(b) This paragraph shall not apply any transfer of title from or to a sole proprietorship or any other entity the ownership of which is not represented by transferable interests.

(c) For the purpose of this paragraph, a beneficial interest in a trust shall be considered an ownership interest in such trust.

2 Declaration Not Required. RSA 78-B:10, III is repealed and reenacted to read as follows:

III. A declaration shall not be required for the following:

(a) Transfers exempted by RSA 78-B:2, except transfers exempted by RSA 78-B:2, IX, XIV, and XVII.

(b) Transfers involving only utility easements.

3 New Paragraphs; Definitions. Amend RSA 304-A:2 by inserting after paragraph VI the following new paragraphs:

VII. "Registered limited liability partnership" includes a partnership formed pursuant to an agreement governed by the laws of this state, registered under RSA 304-A:44 and complying with RSA 304-A:45.

VIII. "Foreign registered limited liability partnership" means a limited liability partnership formed pursuant to an agreement governed by the laws of another jurisdiction and registered under the laws of such jurisdiction.

IX. "Professional service" means any service which may lawfully be rendered only by certified public accountants, public accountants, architects, attorneys, podiatrists, chiropractors, dentists, pharmacists, professional engineers, land surveyors, registered professional nurses, optometrists, physicians and surgeons, physician assistants, psychologists, and veterinarians licensed, registered, certified, or otherwise authorized under the provisions of RSA 309-B, 310-A, 311, 315, 316-A, 317-A, 318, 326-B, 327, 328-D, 329, 330-A or 332-B.

4 Adding Reference. Amend RSA 304-A:6, I to read as follows:

I. A partnership is an association of 2 or more persons to carry on as co-owners a business for profit *and includes, for all purposes of the laws of this state, a registered limited liability partnership.*

5 Nature of Limited Liability Partner's Liability. Amend RSA 304-A:15 to read as follows:

304-A:15 Nature of Partner's Liability.

I. *Except as provided in paragraph II,* all partners are liable:

(a) Jointly and severally for everything chargeable to the partnership under RSA 304-A:13 and RSA 304-A:14.

(b) Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

II. *Subject to paragraph III, a partner in a registered limited liability partnership is not liable directly or indirectly (including by way of indemnification, contribution, assessment or otherwise) for debts, obligations and liabilities of or chargeable to the partnership, whether in tort, contract, or otherwise, arising from omissions, negligence, wrongful acts, misconduct or malpractice committed while the partnership is a registered limited liability partnership and in the course of the partnership business by another partner or an employee, agent, or representative of the partnership.*

III. *Paragraph II shall not affect the liability of a partner in a registered limited liability partnership for the partner's own omissions, negligence, wrongful acts, misconduct or malpractice, or that of any person under the partner's direct supervision and control.*

IV. *A partner in a registered limited liability partnership is not a proper party to a proceeding by or against a registered limited liability partnership, the object of which is to recover damages or enforce the obligations arising out of the omissions, negligence, wrongful acts, misconduct or malpractice of the type described in paragraph II, unless such partner is personally liable under paragraph III.*

6 Rights and Duties of Limited Liability Partners. Amend RSA 304-A:18, I to read as follows:

I. Each partner shall be repaid [his] ***such partner's*** contributions, whether by way of capital or advances, to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied and, ***except as provided in RSA 304-A:15, II, each partner*** must contribute towards the losses, whether of capital or otherwise, sustained by the partnership according to [his] ***such partner's*** share in the profits.

7 Limited Liability Partner's Right to Contribution. Amend RSA 304-A:34 to read as follows:

304-A:34 Right of Partner to Contribution From Co-Partners After Dissolution. Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to [his] ***the*** co-partners for [his] ***such partner's*** share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

I. The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution, [or]

II. The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy[.], ***or***

III. The liability is for a debt, obligation or liability for which the partner is not liable as provided in RSA 304-A:15, II.

8 Effect of Dissolution of Limited Liability Partnership. Amend RSA 304-A:36, IV to read as follows:

IV. The individual property of a deceased partner shall be liable for [all] ***those*** obligations of the partnership incurred while [he] ***the deceased partner*** was a partner ***and for which such partner was liable under RSA 304-A:15*** but subject to the prior payment of [his] ***such partner's*** separate debts.

9 Rules of Distribution. Amend RSA 304-A:40, I(b) to read as follows:

(b) The contributions of the partners [necessary for the payment of all the liabilities] specified in paragraph [II] ***IV*** of this section.

10 Rules of Distribution. Amend RSA 304-A:40, IV to read as follows:

IV. Except as provided in RSA 304-A:15, II:

(a) The partners shall contribute, as provided by RSA 304-A:18, I, the amount necessary to satisfy the liabilities; [but if] ***and***

(b) ***If*** any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

11 New Subdivision; Limited Liability Partnerships. Amend RSA 304-A by inserting after section 43 the following new subdivision:

Registered Limited Liability Partnerships

304-A:44 Registered Limited Liability Partnerships.

I. To become a registered limited liability partnership, a partnership shall file with the secretary of state a registration stating:

(a) The name of the partnership.

(b) The address of its principal office.

(c) The address of its registered office and the name and address of its registered agent for service of process in this state.

(d) A brief statement of the business in which the partnership engages.

(e) Any other matters that the partnership determines to include.

(f) That the partnership hereby registers as a registered limited liability partnership.

II. The secretary of state shall register as a registered limited liability partnership any partnership that submits a completed registration with the required fee; provided the partnership name meets the requirements of RSA 304-A:45.

III. A partnership becomes a registered limited liability partnership at the time of the filing of the initial registration with the secretary of state or at any later date not later than the ninetieth day after the date the registration is filed, specified in the registration, if, in either case, there has been substantial compliance with the requirements of this chapter. A partnership continues as a registered limited liability partnership if there has been substantial compliance with the requirements of this chapter. The status of a partnership as a registered limited liability partnership and the liability of a partner of such registered limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in a registration under paragraph I of this section.

IV.(a) Registration remains effective until:

(1) It is voluntarily withdrawn by filing with the secretary of state a written withdrawal notice; or

(2) The effective cancellation date in a notice from the secretary of state that the partnership has failed for 2 consecutive years to file the annual notice with the required fees, or has failed to notify the secretary of state within 60 days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued, or is without a registered agent or registered office in this state for 60 days or more.

(b) A withdrawal notice under subparagraph (a)(1) shall contain the name of the registered limited liability partnership and the date on which it originally registered as a limited liability partnership.

V. The fact that a registration or a notice is on file with the secretary of state is notice that the partnership is a registered limited liability partnership and is notice of all other facts set forth in the registration or notice.

VI. The secretary of state shall provide forms for a registration under paragraph I of this section.

VII. A limited liability partnership withdrawn under RSA 304-A:44, IV(a)(2) may apply to the secretary of state for reregistration by filing a new registration with the secretary of state under RSA 304-A:44 together with payment of any fees in arrears at the time of withdrawal and for the years since the withdrawal and a certificate from the New Hampshire department of revenue administration indicating there are no taxes due that department.

304-A:45 Name of Registered Limited Liability Partnership. The name of a registered limited liability partnership:

I. Shall contain the words "limited liability partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

II. Shall not be the same as, or deceptively similar to the name of a:

(a) Corporation organized under RSA 292, 293-A, 301 or 301-A, or foreign corporation registered under RSA 292, 293-A, 301 or 301-A.

(b) Foreign partnership registered under RSA 305-A.

(c) Limited liability company or foreign limited liability company registered under RSA 304-C.

(d) Registered limited liability partnership or foreign registered limited liability partnership registered under RSA 304-A.

(e) Limited partnership or foreign limited partnership registered under RSA 304-B.

(f) New Hampshire investment trust registered under RSA 293-B.

(g) Trade name registered under RSA 349.

(h) Name reserved under RSA 293-A, RSA 304-A, RSA 304-B, RSA 304-C.

(i) An agency or instrumentality of the United States or this state or a subdivision thereof or of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of such party.

III. An applicant for a registered limited liability partnership or foreign registered limited liability partnership may apply to the secretary of state for authorization to use a same name or deceptively similar name to one or more of the names described in subparagraphs (a) through (h) and the secretary of state shall authorize the use of the name applied for if the holder or holders of the name gives consent in writing.

304-A:46 Reservation of Name.

I. The exclusive right to the use of a name may be reserved by:

(a) Any person intending to register as a registered limited liability partnership under this chapter and to adopt that name;

(b) Any foreign registered limited liability partnership intending to register in New Hampshire; or

(c) Any registered limited liability partnership or any foreign registered limited liability partnership registered in New Hampshire which, in either case, proposes to change its name to that name.

II. The reservation of a specified name shall be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name. If the secretary of state finds that the name meets the requirements of RSA 304-A:45, II and III, the secretary of state shall reserve the name for the exclusive use of the applicant for a period of 120 days. Once having so reserved a name, the same applicant may again reserve the same name for successive 120-day periods. The right to the exclusive use of a reserved name may be transferred to any other person by filing with the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved, specifying the name to be transferred and the name and address of the transferee. The reservation of a specified name may be canceled by filing with the secretary of state notice of cancellation, executed by the applicant or transferee, specifying the name reservation to be canceled and the name and address of the applicant or transferee.

304-A:47 Annual Notice for Secretary of State.

I. Each domestic registered limited liability partnership, and each foreign registered limited liability partnership registered under this chapter shall file an annual notice, on forms provided by the secretary of state, stating any material changes in the information contained in the partnership's registration or that there are no material changes.

II. The first annual notice shall be filed with the secretary of state between January 1 and April 1 of the year following the calendar year in which the limited liability partnership was registered; provided, however, that a limited liability partnership that has registered at any time between December 1 of the preceding year and April 1 shall not be required to file an annual notice during that year. Subsequent annual notices shall be filed with the secretary of state between January 1 and April 1 of the following calendar years.

III. If an annual notice does not contain the information required by this section, the secretary of state shall notify the reporting domestic or foreign registered limited liability partnership in writing and return the

notice to it for correction. If the notice is corrected to contain the information required by this section and delivered to the secretary of state within 30 days after the effective date of notice, it is deemed to be timely filed.

IV. Each domestic and foreign registered limited liability partnership that fails or refuses to file its annual notice or to pay the associated fees related thereto for any year by April 15 shall be subject to an additional fee as set out in RSA 304-A:51, II.

304-A:48 Change of Name; Change of Information. When a registered limited liability partnership wishes to change its name or a foreign registered limited liability partnership changes its name, it shall file with the secretary of state a notice of change of name. A registered limited liability partnership or foreign registered limited liability partnership may file with the secretary of state a notice of change with respect to any other information contained in its registration or annual notice. Any notice of change of name or information shall specify the name under which the registered limited liability partnership or foreign registered limited liability partnership was originally registered, the date of its original registration, and the new name or new information. The notice of a change of name of a foreign registered limited liability partnership shall be accompanied by a certificate of legal existence or good standing, authenticated within 60 days prior to the filing of the notice, issued by the proper officer of the jurisdiction in which the foreign registered limited liability partnership is registered as a domestic limited liability partnership.

304-A:49 Registered Office; Registered Agent.

I. Each registered limited liability partnership and foreign registered limited liability partnership shall have and maintain in New Hampshire:

(a) A registered office that may be the same as any of its places of business; and

(b) A registered agent, which agent may be either an individual resident of New Hampshire whose business office is identical with the partnership's registered office, or a domestic corporation, or a foreign corporation authorized to do business in New Hampshire having a business office identical with such registered office.

II. A registered limited liability partnership or foreign registered limited liability partnership may change its registered office or registered agent, or both, by filing with the secretary of state a notice of change of name or address of registered agent or registered office setting forth:

(a) The name of the registered limited liability partnership or foreign registered limited liability partnership.

(b) The street address of its current registered office.

(c) If the street address of its registered office is to be changed, the street address to which the registered office is to be changed.

(d) The name and address of its current registered agent.

(e) If its registered agent is to be changed, the name of its successor registered agent.

(f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

III. A registered agent of a registered limited liability partnership or foreign registered limited liability partnership may resign as registered agent by executing and filing a written notice of resignation with the secretary of state. The secretary of state shall mail a copy of the notice to the registered limited liability partnership or foreign registered limited liability partnership.

ited liability partnership at its principal office. The appointment of the registered agent terminates 31 days after filing of the notice with the secretary of state or on the appointment of a successor registered agent, whichever occurs first. The notice of resignation may include a statement that the registered office is also discontinued.

IV. If a registered agent changes its address to another place in this state, it may change the address of the registered office of any registered limited liability partnership or foreign registered limited liability partnership for which it is a registered agent by filing a statement with the secretary of state as required by RSA 304-A:49, II, except that the statement need be signed only by the registered agent. The statement shall recite that a copy of it has been mailed to the registered limited liability partnership or foreign registered limited liability partnership.

304-A:50 Applicability of Chapter to Foreign and Interstate Commerce; Registration of Foreign Registered Limited Liability Partnerships.

I. A partnership, including a registered limited liability partnership, formed pursuant to an agreement governed by this chapter, may conduct its business, carry on its operations, and have an exercise the powers granted by this chapter in any state, territory, district, or possession of the United States or in any foreign country.

II. It is the intent of the legislature that the legal existence of registered limited liability partnerships formed pursuant to an agreement governed by this chapter be recognized outside the boundaries of this state and that the laws of this state governing such registered limited liability partnerships transacting business outside this state be granted the protection of full faith and credit under the Constitution of the United States.

III. It is the policy of this state that the internal affairs of partnerships, including registered limited liability partnerships, formed pursuant to an agreement governed by this chapter, including the liability of partners for debts, obligations and liabilities of or chargeable to the partnership, shall be subject to and governed by the laws of this state.

IV. Before transacting business in this state, a foreign registered limited liability partnership shall:

(a) Comply with any statutory or administrative registration of filing requirements governing the specific type of business in which the partnership is engaged; and

(b) File a notice of registration with the secretary of state, on such forms as the secretary shall provide, stating the name of the partnership:

(1) The address of its principal office.

(2) The jurisdiction in which it is registered as a registered limited liability partnership.

(3) The address of its registered office in this state and the name of its registered agent at that office for service of process in this state.

(4) Any other information that the partnership determines to include.

(5) A brief statement of the business in which the partnership engages.

V. The notice shall be accompanied by a certificate of legal existence or good standing, authenticated within 60 days prior to the filing of the notice, issued by the proper officer of the jurisdiction in which the foreign registered limited liability partnership is registered as such. The notice becomes effective at the time of filing with the secretary of state or at any later date not later than the ninetieth day after the date the notice is filed.

VI. A foreign registered limited liability partnership may register under paragraph IV under its name, provided, however, that the name must contain the words "limited liability partnership," "registered limited liability partnership" or "professional limited liability partnership," or the abbreviation "L.L.P.," "LLP," "R.L.L.P.," "P.L.L.P.," "PLLP," "P.L.L." or "PLL," as the last words or letters of its name. The name of a foreign registered limited liability partnership must satisfy the requirements of RSA 304-A:45, II and III. If the secretary of state determines that the real name of a foreign registered limited liability partnership is unavailable in this state, the foreign registered limited liability partnership may use a fictitious name, under which it may register and transact business in this state provided such fictitious name is available in this state.

VII. The internal affairs of foreign registered limited liability partnerships, and the liability of partners for debts, obligations and liabilities of or chargeable to the partnership, shall be subject to and governed by the laws of the jurisdiction in which the foreign registered limited liability partnership is registered.

VIII.(a) A notice of registration under RSA 304-A:50, IV remains effective until:

(1) It is voluntarily withdrawn by filing with the secretary of state a written withdrawal notice; or

(2) The effective cancellation date in a notice from the secretary of state that the partnership has failed to file the annual notice with the required fees, or has failed to notify the secretary of state within 60 days that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued or is without a registered agent or registered office in this state for 60 days or more. The secretary of state shall send such notice to the partnership 60 days or more prior to the effective cancellation date.

(b) A withdrawal notice under subparagraph (a)(1) shall contain the name of the registered limited liability partnership and the date on which it originally registered with the secretary of state as a foreign registered limited liability partnership.

IX. A foreign registered limited liability partnership is not subject to RSA 305-A.

X. A foreign registered limited liability partnership withdrawn under RSA 304-A:50, VIII(a)(2) may apply to the secretary of state for reregistration by filing a new registration with the secretary of state under RSA 304-A:50 together with payment of fees in arrears at the time of withdrawal, and for the years since the withdrawal, if the foreign limited liability partnership was doing business in this state during those years and a certificate from the New Hampshire department of revenue administration indicating there are no taxes due that department.

XI. A foreign registered limited liability partnership which has been operating with the approval of the department of justice prior to the effective date of this paragraph, shall have up to 30 days after the effective date of this paragraph to register as a foreign registered limited liability partnership.

304-A:51 Execution of Documents; Filing Requirements; Fees.

I. Except as specifically provided in other sections of this chapter, the documents shall be executed by one or more partners authorized to execute the documents. If the partner executing the document is other than a natural person, the document shall be executed on the partner's behalf by a general partner of a limited partnership, an officer of a corporation, a member or manager of a limited liability company, or a person autho-

rized by law to execute on behalf of the partner. To file a document with the secretary of state under subparagraphs II(a), (d), (f), (g), (h), and (i), the original and one exact or conformed copy of the document shall be delivered to the office of the secretary of state along with the prescribed fee. The copy shall be stamped with the word "FILED" and the date and returned to the partnership.

II. The secretary of state shall collect the following fees for:

(a) Registration of limited liability partnership under RSA 304-A:44, I	\$ 35
(b) Annual notice under RSA 304-A:47	\$100
(c) Late filing fee under RSA 304-A:47, I	\$ 50
(d) Withdrawal of registered limited liability partnership under RSA 304-A:44, IV(a)(1)	\$ 35
(e) Name reservation, notice of transfer of reservation, or notice of cancellation under RSA 304-A:46, II	\$ 15
(f) Notice of change under RSA 304-A:48, I(b)	\$ 35
(g) Notice of change of name or address of registered agent or registered office under RSA 304-A:49, II	\$ 15
(h) Notice of registration of foreign limited liability partnership under RSA 304-A:50, IV	\$ 35
(i) Withdrawal notice of foreign limited liability partnership under RSA 304-A:50, VIII(a)(1)	\$ 35

III. The secretary of state may:

(a) Certify copies of any paper on file as provided for by this chapter, for a fee of \$1 per page and \$5 for the certificate.

(b) Issue any certificate, including but not limited to a certificate of registration, other than a certification of a copy under subparagraph III(a), for a fee of \$5, except that for issuing any certificate of the secretary of state that recites all of the filings of a registered limited liability partnership or foreign limited liability partnership, the fee shall be \$10.

IV. The secretary of state shall establish, and may from time to time amend, a schedule of specific fees payable under this chapter.

304-A:52 Administration.

I. The secretary of state shall collect all fees required under this chapter and shall pay them to the state treasurer to be deposited in the general fund as unrestricted revenue, except as provided in paragraph II.

II. The state treasurer shall pay the expenses of administering this chapter out of any money in the treasury not otherwise appropriated until the fees collected pursuant to this chapter have been received by the treasurer. Thereafter, the treasurer shall pay the expenses of administering this chapter out of the fees collected under this chapter and shall reimburse the treasury for previous expenses paid by the treasurer. The governor is authorized to draw a warrant for the sums authorized by this section out of any money in the treasury not otherwise appropriated.

304-A:53 Rulemaking. The secretary of state may adopt rules, under RSA 541-A, necessary to implement the provisions of this chapter.

304-A:54 Reserved Power of State of New Hampshire to Amend or Repeal Chapter. All provisions of this chapter may be amended from time to time or repealed, and all rights of members and managers are subject to this reservation.

304-A:55 Powers of Licensing Authorities Not Affected. Notwithstanding any other provision of law, a partnership engaged in the rendering of professional services may register as a registered limited liability partnership or foreign registered limited liability partnership subject to:

(a) The laws and rules governing the rendering of professional services as defined in RSA 304-A:2, IX by partnerships; and

(b) Such other terms and conditions imposed by its governing licensing authority.

12 Registration Not Required. RSA 349:1 is repealed and reenacted to read as follows:

349:1 Registration; Generally.

I. Every sole proprietor doing business in this state under any name other than the sole proprietor's own name, and every partnership, trust or association doing business in this state shall register the trade name of such business, trust or association in the manner provided in RSA 349:5 and 349:6.

II. The provisions of this chapter shall not apply to corporations organized under RSA 292, 293-A, 301 and 301-A, foreign corporations registered under RSA 292, 293-A, 301 and 301-A, foreign partnerships registered under RSA 305-A, limited liability companies and foreign limited liability companies registered under RSA 304-C, registered limited liability partnerships or foreign registered liability partnerships registered under RSA 304-A, limited partnerships or foreign limited partnerships registered under RSA 304-B or New Hampshire investment trusts registered under RSA 293-B except as such holders of the registrations as described in this paragraph may be doing business under trade names other than the names under which they are registered.

III. The secretary of state shall decline to register any trade name similar or likely to be confused with or mistaken for any trade name or for any registration as described in paragraph I or II of this section or any name reserved under 293-A, 304-A, 304-B:2, or 304-C:4 unless the holder or holders of the name gives written consent to use the same or deceptively similar name.

IV. The secretary of state shall decline to register any trade name the same as, or deceptively similar to an agency or instrumentality of the United States or this state or subdivision thereof or of any political party recognized under RSA 652:11, unless written consent is obtained from the authorized representative of such party.

V. The provisions of this chapter shall not apply to rating organizations or insurers which engage in joint underwriting or joint reinsurance which are referred to in, and subject to the provisions of RSA 413.

13 Securities Laws; Definitions. Amend RSA 421-B:2, XX, to read as follows:

XX.(a) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit sharing agreement; ***membership interest in a limited liability company; partnership interest in a registered limited liability partnership; partnership interest in a limited partnership;*** collateral trust certificate; preorganization certificate or subscription; transferable shares; investment contract; investment metal contract or investment gem contract; voting trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining right, title or lease or in payments out of production under such a right, title or lease; or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, receipt for guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period.

(b) Notwithstanding subparagraph (a), a membership interest in a limited liability company or a partnership interest in a registered limited liability partnership is not a security if:

(1) The secretary of state, by rule or order, determines that it is not a security;

(2) The limited liability company is a professional limited liability company or foreign professional limited liability company under Chapter 304-D; or

(3) The registered limited liability partnership or foreign registered limited liability partnership:

(A) Is licensed, registered, certified, or otherwise authorized under the provisions of RSA 309-B, 310-A, 311, 315, 316, 317-A, 318, 326-B, 327, 329, 330-A or 332-B to render professional services, as defined in RSA 304-D:1, VI, including necessary related services, or

(B) Is related to a registered limited liability partnership or foreign registered limited liability partnership licensed, registered, certified, or otherwise authorized under the provisions of RSA 309-B, 310-A, 311, 315, 316, 317-A, 318, 326-B, 327, 329, 330-A or 332-B to render professional services, as defined in RSA 304-D:1, VI.

(c) For purposes of subparagraph (b)(3) of this paragraph, a registered limited liability partnership or foreign registered limited liability partnership is related to a registered limited liability partnership or foreign registered limited liability partnership engaged in the rendering of professional services if:

(1) Such registered limited liability partnership or foreign registered limited liability partnership provides services related or complementary to the professional services rendered by, or provides services or facilities to, the registered limited liability partnership or foreign registered limited liability partnership engaged in the rendering of professional services; and

(2) Either:

(A) At least a majority of the partners in one partnership are partners in the other partnership, or

(B) At least a majority of partners in each partnership also hold interests or are members in another person, and each partnership renders services pursuant to an agreement with such other person, or

(C) The partnerships are affiliates within the meaning of RSA 421-B:2, I.

(D) In connection with the issuance of a cease and desist order issued by the secretary of state, and any hearings conducted, under RSA 421-B:23, I(a), the secretary may presume that a membership interest in a limited liability company or a partnership interest in a registered limited liability partnership is a security, and the person relying on subparagraph (b) of this paragraph has the burden of proving that the interest is not a security under the provisions of subparagraph (b).

14 Registration Requirement. Amend RSA 421-B:11, II to read as follows:

II. Before the secretary of state may accept articles of incorporation for a new corporation under RSA 293-A, an application for a certificate of authority under RSA 293-A, a certificate of limited partnership for a new limited partnership under RSA 304-B, a certificate of formation for a new limited liability company or an application for regulation as a foreign limited liability company under RSA 304-C, **registration of a registered limited liability partnership or a notice of registration of**

a foreign registered limited liability partnership under RSA 340-A, or an application for registration of a foreign partnership under RSA 305-A, the following requirements shall be met:

(a) Along with a \$50 filing fee, a statement shall be filed with the secretary of state that the capital stock of the corporation or the interests of the limited partnership, **registered limited liability partnership, foreign registered limited liability partnership, or limited liability company** have been registered, or when offered will be registered, under this chapter or are exempted, or when offered will be exempted, under this chapter, or are or will be offered in a transaction exempted from registration under this chapter, **or are not securities under this chapter**; and, in the case of a New Hampshire corporation, limited partnership, **registered limited liability partnership**, or limited liability company, that the articles of incorporation or certificate of limited partnership state whether the capital stock or interests in the limited partnership, **registered limited liability partnership or limited liability company** will be sold or offered for sale within the meaning of this chapter.

(b) The statement shall be signed by the incorporators of a corporation to be formed, by an executive officer of an existing corporation, [or] by the general partners or intended general partners if a limited partnership, **by one or more members or managers authorized to do so if a limited liability company, or one or more partners authorized to do so if a registered limited liability partnership or foreign registered limited liability partnership.**

15 Securities. Amend RSA 421-B:17, II(k) to read as follows:

(k) Any offer or sale of securities, including offers and sales pursuant to preorganization subscriptions for the securities of an issuer to be formed, by a corporation, limited partnership, **registered limited liability partnership**, or limited liability company having its principal office in this state if, after giving effect to the sale, the aggregate number of holders of all of the issuer's securities, all of whom shall have purchased for investment, does not exceed 10, exclusive of persons designated in subparagraph (g), provided that no commission or other remuneration has been paid and no advertising has been published or circulated in connection with any such sale, and all sales are consummated within 30 days after commencement of business by the issuer. The secretary of state may by rule or order increase the number of persons to whom sales may be made under this exemption.

16 Effective Date.

I. Sections 1 and 2 of this act shall take effect July 1, 1996.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Provides for the formation, registration, and regulation of registered limited liability partnerships. A limited liability partnership limits the liability of a partner for liabilities arising from omissions, negligence, wrongful acts, misconduct or malpractice of the other partners.

II. Establishes annual fees and registration fees for limited liability partnerships.

III. Exempts from the real estate transfer tax certain transfers in connection with the conversion of one entity into another.

IV. Requires a declaration of consideration to be filed with the department of revenue administration for exemption from the real estate transfer tax in certain circumstances.

SENATOR FRASER: Mr. President, I rise today to report on HB 580 and to support the bill as well as an amendment that may offer to our business community an option to be organized as a limited liability partnership. LLPs are a relatively new type of general partnership that are now available in more than 35 states and the District of Columbia. In general, an LLP has the prominent characteristics of a traditional partnership with one significant exception, unlike partners in a general partnership who are personally, jointly and severally liable for all debts and obligations of the partnership, a partnership in an LLP is generally not personally liable for partnership obligations arising from the acts or omissions of other partners or employees of the partnership. A partner in an LLP, however, remains liable for the ordinary commercial obligations of that entity. The enactment of an LLP law will enhance New Hampshire's laws as an attractive place to do business. Passage of the law will also discourage businesses from moving offices or headquarters to neighboring states that do offer these advantages. While enactment of an LLP brings a number of advantages, there are no corresponding disadvantages. There is no negative budgetary impact. As mentioned, New Hampshire businesses will not gain additional liability protection compared to what is available under our current law and remain personally liable for their own actions or acts of others under the direct supervision and control. New Hampshire consumers will remain fully protected under the negligence act. I might add, Mr. President, that there is a protracted amendment, but all that the amendment does is to make the language in the bill consistent with other parts of the RSAs having to do with financial entities. We would urge you support of ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 1220-FN-L, an act providing that the state shall apply for and utilize moneys from the Goals 2000 - Educate America Act. Education Committee. Vote: 7-0. Ought to pass with amendment. Senator Lovejoy for the committee.

5794L

HB 1220-FN-LOCAL

Amend the bill by replacing section 1 with the following:

1 State Board of Education to Apply for Funds Under the Goals 2000 - Educate America Act. The New Hampshire state board of education shall apply for and utilize moneys from the federal Goals 2000 - Educate America Act to provide funding for educational improvement grants to qualifying local districts which choose to apply for such funding. New Hampshire shall accept the Goals 2000 money to be used throughout our schools to fund the proposed plan to bring computer knowledge and linkage to all the schools of the state who choose to participate, provided that New Hampshire shall agree to no criteria, standards, conditions, or mandates required by the federal government as terms for accepting this money unless they are included in New Hampshire's plan.

AMENDED ANALYSIS

This bill provides that the New Hampshire state board of education shall apply for and utilize moneys from the federal Goals 2000 - Educate America Act under certain conditions to provide funding for educational improvement grants to qualifying local districts which choose to apply for such funding.

SENATOR LOVEJOY: Mr. President, Goals 2000 put to rest last year, and now resurrected by the leadership of the House Education Committee, faces us again, here, and faces us now. It faces us with the cry that there are no federal strings attached, and this claim has been made so strongly throughout the state, that people believe it to be true. In spite of the fact, that past secretaries of education have pointed out the pitfalls of Goals 2000, we are told that there are no strings. Former secretary of Education Bill Bennett, says about Goals 2000, "I oppose it, because it attaches a number of strings to the grant money. These are de facto mandates and they outweigh the benefits. Goals 2000 is a terrible piece of legislation." Former secretary Lamar Alexander, "I would treat it like a fox dressed as a duck at a duck family reunion." We are told that New Hampshire is winging it alone in our stance on Goals 2000, this too, Mr. President, is not so. Alabama entered into the program in 1994, the new governor, a Republican, expressed his desire to extract Alabama from the program, they are looking at it. California has accepted the money, but they have not spent any of it. Indiana last week, the Senate passed a resolution and called for Indiana's withdrawal. Montana participated for a year. Virginia has stood with New Hampshire. Mr. President, as to strings, we have strings throughout the federal legislation. Those strings, section 202, national goals, section 207, early childhood assessments, section 212, national education standards, section 317, integration of technology, section 503, establishment of a national board. Section 504, functions of national board. Mr. President, in the legislation it says, "except that the goals panel shall have the option of disapproving criteria." It goes on to say, "that criteria is certified by a National Education Standards and Approval Council. The Council shall address to the extent, to which state assessments are aligned. The council shall certify state assessments only then." We tried, Mr. President, and quite frankly, let my position be known here and to the world, that I have opposed, and I do oppose Goals 2000, and the fact that New Hampshire is thinking about selling our successful education system out of local control, to the federal government for six thousand dollars a student. Quite frankly, I don't think that it is worth it. So as a back up position, and this report is one that is so important to the Senate, because it is establishing a Senate policy; and if it were up to me, Mr. President, to vote yes or no, I would vote no. But the New Hampshire Senate now faces a policy decision. So what we have done, is we have come up with an amendment. That amendment says, okay federal government, okay educational establishment, okay media who claimed that there are no strings, we will agree with you, there are no strings. The amendment says, if there are no strings, then we will take the money. Send us a check. The amendment says, that when we get that check, with no strings, we will spend it on establishing a computer technology improvement plan for those school districts in our state that choose to have it, under the jurisdiction and guidance of our state Board of Education. It says, Mr. President, very plainly, that we will agree to no criteria, we will agree to no standards, we will agree to no mandates, we will make no agreement except that we will spend the money on education in a plan devised by New Hampshire to bring TAPE CHANGE in its motive as this amendment, is and its, then they will send us a check and say here is the money, spend it in the best manner possible to achieve what you plan to improve education in your state. Thank you.

SENATOR BLAISDELL: Senator Lovejoy, you are talking about no strings attached here. But you just read to me, that you are sending it back to my school districts and you have put strings on it for different things, how they spend the money. I don't understand?

SENATOR LOVEJOY: Well, Senator, we have had a plan that has been proposed to us that has received widespread support, as I understand it, and from those people who have contacted me, that our schools need or could use an enhanced computer technology ability. That computer technology should be tied to other schools in the state so that we can all achieve a better educational product. The amendment proposes that the money, if it is sent to us with no strings, be used for that.

SENATOR BLAISDELL: Would you believe, that I don't think that there are any strings coming from Washington for this Goals 2000, but yet, you oppose any kind of strings, but yet you are sending back to my district, strings to tell them what to do with that money. Why can't we just send the money back to them and let my school districts make a decision on how they spend that money?

SENATOR LOVEJOY: I guess, Senator Blaisdell, I have answered that as best as I could. Thank you.

SENATOR SHAHEEN: Senator Lovejoy, I know that you have been very active in the School to Work program, is that correct?

SENATOR LOVEJOY: I guess that you know that is a statement, and yes, I have, Senator Shaheen.

SENATOR SHAHEEN: It is my understanding that the state of New Hampshire just received a very nice grant from the federal government for the School to Work Program?

SENATOR LOVEJOY: That is correct. We did.

SENATOR SHAHEEN: Can you tell me what the strings were that were attached to that grant?

SENATOR LOVEJOY: Well, Senator Shaheen, we are debating. . . I will answer your question, but I want to point out to you and to this body, that we are not debating School to Work, we are debating Goals 2000. I would ask that the President if we could keep the discussion confined to the Goals 2000 because it is probably going to be a long debate. Let me tell you, Senator Shaheen, that School to Work was an effort that started at the local level, with local planning, local control, local guidance, local development of programs from a state that has set itself up into seven regions devising their own localized programs. We are not following.

SENATOR SHAHEEN: But it did come, am I correct, with guidelines from the federal government on how that money could be used? I guess, Senator Lovejoy, my point, I certainly understand that we are debating Goals 2000, but the argument that has been used as to why the state should not accept that money, is because of the so-called strings attached to it. I am just trying to point out the inconsistencies in that argument, because in fact, the state accepts a lot of federal money, including the School to Work grant that we just received, that has federal strings attached. Because Goals 2000 has suddenly gotten on some right-winged ideological perspective, the state suddenly, should not accept that money. I think that is an inconsistent argument.

SENATOR LOVEJOY: I guess, Senator Shaheen, probably just to terminate this debate, because it could go on for a long time and with nothing coming from it, you made your position known at our vote last year, and I made mine known, and apparently, neither has changed.

SENATOR COHEN: Senator Lovejoy, I guess that I am really confused here. I just heard you talking about local control, local planning and there have been some confusing messages put out. You understand what I am doing. You talked about local control, local planning, local guidance, leaving the decision up to the local people to develop local programs. These are words that just came out of your mouth, and yet, in the amendment that you are supporting, you are directing that it shall be used for computer knowledge and linkage to all of the schools in the state. Doesn't that go directly against that very conservative principle which you just stated, which is leaving it up to the local communities? Can't they decide what to do with the money? Wouldn't it be a more conservative position and be more consistent with local control to have them decide rather than us directing them?

SENATOR LOVEJOY: I would say, Senator, that if you disagree that the money, should it come, should be used for those schools who choose to get involved in a program with enhanced computer technology, then you ought to vote against it. If you agree with me, then vote for it.

SENATOR RODESCHIN: Senator Lovejoy, I spent the morning, a good part of it, listening to the hearing on Goals 2000. I am a little bit confused. Would you clarify something for me? One House member came in and needed the money for her school for various needs. Another House member came in and said that it is only available for technology. Another individual from the Christa McAuliffe, said that you can only use it for technology. So in answer to Senator's Blaisdell's question, is there only one way that we can spend this money?

SENATOR LOVEJOY: It is my understanding, Senator, that the money could not be spent to achieve those things that should be achieved by the school system. It couldn't be used to shore-up an existing budget, but to add some incentives for doing additional things, that were felt important by the school board.

SENATOR LARSEN: What we have in the committee amendment is a discussion that New Hampshire shall accept Goals 2000 money to fund the proposed plan. There is no plan. There is a mention by a particular governor, that we will have an education and technology proposal. We have no proposal at this time, and yet this says that we cannot apply for those Goals 2000 money unless we use that plan to use computers, to bring computer knowledge to our schools. It says that we shall agree to no criteria. One of the criteria for applying for Goals 2000 is that you have to fill out the application. Now does that mean that this is a push me, pull me amendment or not? We have an ability through a floor amendment that you are going to see come up next, to apply for Goals 2000 money through the tightly controlled application that Elizabeth Twomey wrote last June. This amendment, that you are now considering, says, yes, New Hampshire, go ahead and apply, but, if you have to fill out the criteria that says that fill out an application, you can't do it. This is an amendment in which we must reject and we can keep it as tightly worded as the Elizabeth Twomey, Commissioner of Education application has all of the assurances written in writing from the U.S. Department of Education that guarantees that New Hampshire will operate under a waiver

procedure. But to pass this amendment is to say, 'go ahead and apply for it, but under the terms that we say you can apply for it, you can't apply for it. It is crazy. I say vote down this amendment and vote yes on the floor amendment which is tightly worded to say that New Hampshire will apply for those monies, we will use them for computer technology and teacher training, there is also that part that we are leaving out through this amendment. Then we can send it back to the local districts for them to devise the plan, not for the state of New Hampshire to send that word down. This amendment, I voted against in committee and I urge you to vote against it as well. You will have an amendment that is more tightly worded because there is a plan in the second amendment, the floor amendment coming up before you. This has no plan and I urge you to defeat it.

SENATOR WHEELER: This amendment is far worse than the original bill because of the last sentence in the amendment that essentially black-mails us into including the federal strings in our New Hampshire's plan. I would like to read you a few quick things that our congressional delegation thinks about this plan and why the particular strings that come with this plan are wrong. "Imagine a czar of curriculum in Washington, D.C. Crazy? How about a national bureau of standards for schools? Far fetched? This may sound like a bad dream at first, however, it could become reality if the Senate passes President Clinton's education reform called Goals 2000." That was from Judd Gregg. Also in his comments, "Voluntary standards? Throughout this legislation, the term voluntary is used aggressively. The standards are, for example, voluntary; the state's participation is voluntary; the national opportunity to learn standard is voluntary; the system assessment is voluntary. It is a classic example of the Shakespearean comment "The lady doth protest too much, methinks." Just like my comments in the Wall Street Journal, "The only thing that is voluntary about Goals 2000 is signing up, after that you are under orders." Even my good friend Charlie Bass has comments about Goals 2000. He says, "I admire your resolve in maintaining New Hampshire's status of one of the only two states not to accept funding for Goals 2000." Lamar Alexander says, and this is for Senator Shaheen, "This is not just the ranting of some fringe group. Look at President Clinton's new Goals 2000 educational law. The New Hampshire State Board of Education asked me not long ago about this question, isn't Goals 2000 just a first cousin to President's Bush's America 2000? The answer is no. It is completely different." An educational secretary doesn't like Goals 2000. Bob Dole says that the, "New Hampshire Board of Education should be commended for rejecting Goals 2000 and its Washington-knows-best approach." I think that the evidence is clear, and that we should not accept this money under any circumstances. Thank you, Mr. President.

SENATOR SHAHEEN: Senator Lovejoy, I am not confused, but I have to say that I am puzzled. Because the original bill would require that the state apply for the funds, the amendment that is coming out of your committee, changes that to have the State Board of Education, not only apply for, but also to utilize the funds. I guess that I thought that the State Board of Education did not have an administrative function. I thought that the administrative function of education in this state was the State Department of Education? I am curious as to exactly how the State Board of Education is going to utilize the monies and who on the State Board of Education is going to make the determination about which school districts get that money and how that application process is set up, and how the whole program is administered?

SENATOR LOVEJOY: Well I guess, Senator, that the language there isn't an oversight. It has been determined that that is the way that it should be. Let me tell you too, that the State Board would evaluate or would honor the request of those school districts who wanted to participate in the computer technology program and would distribute the funds in order to have them to do that or allow them to do that. It is my understanding, that this would be within the realm of the State Board and within the ability of the State Board. It would give the State Board the authority, as it should be, I think, to make those decisions and those actions.

SENATOR SHAHEEN: I guess I am still not quite sure that I understand how that would happen. Are you suggesting that there would be a committee of the State Board that would make a determination about which school districts are granted funds under this program?

SENATOR LOVEJOY: The intention is that nobody would be excluded who wanted to be included.

SENATOR SHAHEEN: Who will make the determination?

SENATOR LOVEJOY: The State Board itself, how they would set up their decision making would be within their determination on whether they would do it as a board or a committee or whatever. It would be up to the State Board, as it is in all other manners that they have jurisdiction over.

Recess.

Out of recess.

SENATOR COLANTUONO: I rise in opposition to both the original bill and the committee amendment, notwithstanding my deep opposition to the Goals 2000 legislation. My opposition to this is more on an issue of constitutionality relating to the separation of powers doctrine. That is an issue that I haven't heard discussed too much. It is an issue that should be discussed. Each of us takes an oath to uphold the constitution of both the United States and the state of New Hampshire and one very important part of that constitution is the doctrine of separation of powers. We don't like it if the judiciary or the executive branch infringes upon us, and the executive branch shouldn't like it if the legislature infringes upon their prerogatives. We have a law in this state, RSA 21 which sets up the State Board of Education and gives it the power to set the policy for education in this state. Pursuant to that law, the State Board of Education took a legitimate vote to decline to apply for or accept federal Goals 2000 money. They did so after a lot of input, both concerning the merits of the bill itself and public input. They then acted, in my opinion, in the best interest of the people of the state of New Hampshire who don't want to give over the control of their schools to the federal Department of Education. This bill seeks to undo that vote. It seeks to micro manage the workings of the Board of Education. It seeks to overturn the action that they took and tell them to take a new action. They are an executive branch department, they are not a legislative branch department, we simply do not have the right to tell them to do this. In my opinion, if we vote for any form of this bill, we are violating our oaths to uphold the constitution of this state. It sets a terrible precedent. I think that if we start to think about all of the ways in which we could start to do similar items, we would be trying to turn over executive council decisions on appointments or contracts, we would be overruling Wetlands Board's decisions if we had a constituent who didn't like the outcome. It would create a mess. So I say, don't go down this road, don't start with a ter-

rible precedent and support the action of the Board of Education. If you disagree with it, run for governor and appoint your own board. Thank you.

SENATOR F. KING: Senator Colantuono, I am joining the ranks of the confused, I guess. Does the legislature ever pass laws that redirect the activities of state administrative agencies because they think that they are not being managed in the proper manner or because they think that they would like to send them a new message? Has that ever happened?

SENATOR COLANTUONO: The proper way to do this, if we disagree with this decision, would be to take away the authority of the State Board of Education to deal with applications for federal dollars and to give it to the Senate Education Committee or the House Education Committee.

SENATOR RUBENS: I would like to rise in support of the Senate Education Committee amendment, which was adopted on a 7 to 0 vote and because I support receiving our share of the Goals 2000 money, but I reject, as the committee did, adherence to any federal national school board federal uniform standards or federal curriculum. In addition, I would like to just make certain that it is on the record that New Hampshire also rejects, if we adopt this amendment, that we also reject any liability for adherence to the hundreds of pages described in the federal government's vision for local schools, which if adopted, would so over burden the missions of our local schools, as to guarantee failure.

Senator Blaisdell moved the question.

Adopted.

Question is on the committee amendment.

Division vote was requested.

Yeas: 14 - Nays: 9

Amendment adopted.

Senators Colantuono, Larsen, Pignatelli and Wheeler in opposition to the committee amendment on HB 1220-FN-L.

Senators Barnes and Stawasz in favor of the committee amendment on HB 1220-FN-L.

Senator Larsen offered a floor amendment.

5807L

Floor Amendment to HB 1220-FN-LOCAL

Amend the bill by replacing section 1 with the following:

1 State to Apply for Funds Under the Goals 2000 - Educate America Act. The state of New Hampshire shall apply for and utilize moneys from the federal Goals 2000 - Educate America Act to provide funding for educational improvement grants to qualifying local districts which choose to apply for such funding. Such application shall be identical to the draft application developed by the commissioner of education and dated June 21, 1995.

AMENDED ANALYSIS

This bill provides that the state of New Hampshire shall apply for and utilize moneys from the federal Goals 2000 - Educate America Act to provide funding for educational improvement grants to qualifying local

districts which choose to apply for such funding. Such application shall be identical to the draft application developed by the commissioner of education and dated June 21, 1995.

SENATOR LARSEN: You now have an opportunity with this floor amendment, to send the House a more perfect application for Goals 2000. The language that you will be receiving in the floor amendment has been suggested to us by Neal Kurk and those in the House who suggest that the language should include, "such application shall be identical to the draft application developed by the commissioner of education and dated June 21, 1995." This amendment makes it clear what kind of application that we are going to send to Washington. It is in writing. It was in writing, and it has been there for almost a year now. All of us who have had a chance to review that, feel that it is a very good application, and the right way that we apply for monies to Washington. So you have an opportunity with this vote to make a better statement of how you would like those monies used for computer education teacher training and to allow local school districts to apply under their own application process and grant application writing. I urge you to vote ought to pass on the floor amendment.

Recess.

Out of recess.

SENATOR LARSEN: I would like to clarify the floor amendment. Those of you who do not sit on the Senate Education Committee, perhaps do not know, but the application of Betty Twomey outlines in several sections, especially on page seven of her application, the conditions and the assurances that she has received from the U.S. Department of Education regarding the state of New Hampshire's application. It is fully outlined in that application. All of those who sat on the Education Committee reviewed those assurances. It is very clear how the state of New Hampshire, in that application, is applying for monies for computer education and teacher training. This is the right way for us to apply for Goals 2000 money. I urge you to pass it as is.

SENATOR KEOUGH: Senator Larsen, if this amendment is passed, and the Board of Education, in fact, makes this application, and the federal government does not agree with it in its entirety, is it your opinion that, at that point, we can stop this nonsense and walk away?

SENATOR LARSEN: We have heard from the U.S. Department of Education through Commissioner Twomey, that the U.S. Department of Education has reviewed our draft application and that they will accept it; therefore, the scenario that you just painted will not happen.

SENATOR COHEN: Senator Larsen, I hope that we can clarify some of the previous confusion. It says here that the money would go to local districts which choose to apply for such funding. Would this then maintain the New Hampshire principle of local control and local decision making? Does this mean that it is up to the local communities to decide to apply for the funding once the money has been granted to the state?

SENATOR LARSEN: It is an entirely local decision to make application for Goals 2000 once they are freed up to do that.

SENATOR COHEN: Thank you.

SENATOR RUBENS: Commissioner Twomey's proposal which is referenced in the floor amendment offered, goes along way. It acknowledges

the existence of the strings and it asks for waivers from two of them. The opportunity to learn standards, which if you read the paragraphs relative to that you will see the requirement for equalization of funding embodied in the concepts there. It also requests waivers from the school based clinics paragraph. So that is already in Commissioner Twomey's application. The problem is it doesn't request waivers from all of the potential or actual strings and that is my objection to this particular amendment.

SENATOR SHAHEEN: Senator Rubens, I appreciate what you just said about Commissioner Twomey's plan. I guess what I would ask you, is where the plan is that you think is better than that, that is addressed in the committee amendment that we just adopted? Can you tell me who wrote that plan and how it is different from Commissioner Twomey's plan?

SENATOR RUBENS: My objection to Commissioner Twomey's application, in my mind, is that there are likely to be liabilities, implicit, in the state entering into what in essence is a contract with the federal government based upon our receipt of the money. Embodied in that contract, is the federal statute, Title III, relative to the Goals 2000 law, Commissioner Twomey's application requests waivers and it explicitly states that the state will not receive or accept the money without the waivers, but it only names specific sections of Title III. I am concerned with other sections in Title III which would create liability for the state.

SENATOR SHAHEEN: Perhaps, Senator Rubens, you didn't understand my questions? My question was, can you tell me who has written or who is going to write the plan that is referred to in the committee amendment which we just adopted and what that plan says about those issues?

SENATOR RUBENS: My assumption is that it is a plan to be flexed out by the State Board of Education embodying the concept of linking schools with advanced communications technologies and computerization and there seems to be consensus around the state to adopt such a plan.

SENATOR SHAHEEN: But in fact, there is no such plan TAPE CHANGE or the State Department of Education that is referred to in that committee amendment that we just adopted.

SENATOR RUBENS: I think that the plan is being developed right now and is referenced in here and I will entrust the state with the localities to develop that plan appropriately, but without involvement of the federal government.

Question is on the floor amendment.

A roll call was requested by Senator Larsen.

Seconded by Senator Wheeler.

The following Senators voted Yes: Gordon, Currier, Blaisdell, Pignatelli, Larsen, J. King, Russman, Shaheen, Cohen.

The following Senators voted No: F. King, Johnson, Fraser, Rubens, Lovejoy, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Barnes, Danais, Delahunty, Keough.

Yeas: 9 - Nays: 15

Floor amendment fails.

Ordered to third reading.

Senators Colantuono and Wheeler in opposition to the Third Reading motion of HB 1220-FN-L.

Senator Stawasz in favor of the Third Reading on HB 1220-FN-L.

HB 1540-FN-L, an act changing the school foundation aid distribution formula. Education Committee. Vote: 5-2. Inexpedient to legislate. Senator Rubens for the committee.

SENATOR RUBENS: Mr. President, HB 1540 would have altered the Foundation Aid distribution formula, equalized valuation would have been averaged over the second, third and fourth preceding fiscal years instead of the current valuation method based on the second preceding fiscal year. The committee felt that averaging the three years to determine the valuation would be detrimental to many towns and it would make state aid bear less of a relationship to need and we recommend this bill as inexpedient to legislate.

SENATOR BLAISDELL: Mr. President and members of the Senate, in all of the years that I have been in the Senate, I have told people that every time that I lost, if I cried, I would look like the Colorado River on both sides. This one here hurts the most of all. Of all of the things that have happened to me in this Senate, this one here hurts me the most of all. It hurts the town of Winchester that I believe deserves some consideration. Senator Rubens, you can laugh if you want, if this is a pay back for what I did yesterday in voting against the cigarette tax, that should be a different issue. In all of the years that I have been in this Senate, I have never taken another issue. I have always gone the next day and voted for what I thought was right. So don't ever laugh at me again on something like that. Senator Gordon, I appreciate the work that you have done on this bill. Senator Lovejoy, I appreciate the work that you have done. Nobody would have lost any money over this over the next three years. It would have averaged the three years. The towns would not have lost money. All that it would have done was to take some of the burden off of some of the smaller towns and including Berlin. Winchester is going to lose \$653,000 in one year. The House in its wisdom passed you over unanimously, a piece of legislation that would have averaged this over three years. You wouldn't have got hurt. Nobody would have got hurt. Down the line, probably you would have, but so wouldn't Winchester. This is wrong. I am going to take your word, Senator Lovejoy, that you told me that you would be working with me in the next month or so to see if we can't come up with some answers for Winchester and for Berlin. This is devastating to that small high school who got national recognition in this state for their school. They pulled themselves up by the boot straps, these kids. I am not going to take off my clothes today, Senator Roberge, I have taken them off before and had a Thayer shirt on. I am not going to do that. This is unconscionable what you are doing. You could have spread this over three years with no hurt to that small town. I know that you people agonized over it. Senator Gordon you spoke to me and I believe that whatever I did yesterday, that you people didn't hold it against me and are going to send me back a message. If you did send me a message, and you did it that way, then I am very sorry for the way that you have done it. But I will tell you, this is detrimental to the town of Winchester. They needed some help and I asked for it, and you could have given it to them. You in this Senate, had the power to be able to save a district that has had a hazardous waste tannery in the middle of it for the last 100 years. The average wage in that town runs about \$15,000. They got a million dollars in special education that they have to put out,

that town. Why? Because of 100 years of neglect in this state on education. That is what is wrong. There should be a fairer way to do it. I object to this.

SENATOR RUBENS: Senator Blaisdell, both of my positions yesterday and today are based solely on principle and a desire to send state aid to local communities where I feel that it is deserved. My vote yesterday to send \$61,000 in kindergarten aid to Winchester, and my vote yesterday to send \$44,000 in special education aid to Winchester is based purely and solely on principle and nothing else.

SENATOR LARSEN: You noticed that this vote is five to two. There are districts all over this state. We hear about Winchester being the worst case in the whole state, but there are school districts all over this state who have come to us and said that they are having trouble working their budgets because they cannot anticipate the vast swings that happen in Foundation Aid. This money, much to my dismay, does not add more money to school districts for education, but it does make their budgeting easier. We have huge variation year to year in school budget, in aid to school districts. School budget committees are having an awful time trying to balance their budgets knowing from year to year that there is going to be these incredible swings in school aid. This bill made a lot of sense. This bill went down in the Senate Education Committee, it shouldn't have gone down. I urge you to reconsider this as you examine your vote today and think about its effects on your school districts, and realize that over the long run, you might be in Winchester's position next year in your school districts. Let's vote this bill as ought to pass.

Recess.

Out of recess.

SENATOR BLAISDELL: I rise to make the substitute motion of ought to pass. The only reason that I ask to do this is to get it down into Finance to see if we can't work on it for the next month or so. I ask this courtesy in the Senate to pass this piece of legislation and send it to Finance. By the way, I am out voted six to one. But again, send it to Finance so that we can try to come up with a solution, and if we can't, then I will accept the inexpedient to legislate and talk with George Lovejoy after that.

SUBSTITUTE MOTION

Senator Blaisdell moved to **substitute ought to pass for inexpedient to legislate.**

Adopted.

Referred to the Finance Committee (Rule #24).

HB 1597, an act changing the wetlands board to the wetlands council. Environment Committee. Vote: 6-0. Ought to pass with amendment. Senator Russman for the committee.

5776L

Amendment to HB 1597

Amend RSA 21-O:5-a, I-II as inserted by section 6 of the bill by replacing them with the following:

I. There is established a wetlands council for the purpose of implementing the provisions of law conferring on the division authority to decide matters relative to resources of the state, including, but not limited to, excavating, dredging and filling waters of the state. Appointees

and officials shall have voting rights as members of the wetlands council; provided, however, that nothing in this chapter shall be construed as affecting other duties of the division with reference to dams, water levels, and administration of the division or the department of environmental services. The wetlands council shall be composed of the following:

(a) The executive director of the department of fish and game or designee.

(b) The commissioner of transportation or designee.

(c) The commissioner of resources and economic development or designee.

(d) The director of the office of state planning or designee.

(e) The commissioner of the department of environmental services or designee.

(f) The commissioner of safety or designee.

(g) Six members of the public appointed by the governor and council for a term of 3 years or until a successor is chosen. One of these shall be a member of a municipal conservation commission at the time of appointment, and be one of 3 nominees submitted by the New Hampshire Association of Conservation Commissions; one shall be a supervisor, associate supervisor, former associate supervisor or former supervisor, of a conservation district at the time of appointment, and be one of 3 nominees submitted by the New Hampshire Association of Conservation Districts; one shall be an elected municipal official at the time of appointment, and be one of 3 nominees submitted by the New Hampshire Municipal Association; one shall be a member of the non-marine construction industry at the time of appointment, and be nominated by the governor; one shall be a member of the marine construction industry at the time of appointment and be nominated by the governor; and one shall have experience in environmental protection and resource management at the time of appointment and be one of 4 nominees submitted 2 each, by the New Hampshire Audubon Society and the New Hampshire Forest Society. One member of the council shall be elected as chairperson by the members of the council.

II. The 6 members appointed under subparagraph I(g) shall be entitled to expenses and \$50 compensation per diem. The other members of the council shall receive no additional compensation for their service as members of the council, other than their regular salaries from their respective state departments, but shall receive mileage and other expenses paid at the rate set for state employees.

III. The wetlands council shall receive administrative support from the department.

Amend RSA 21-O:5-a, VII as inserted by section 6 of the bill by replacing it with the following:

VII. The council shall adopt rules in accordance with the rulemaking provisions of RSA 541-A to govern its proceedings. The council shall be subject to the requirements of RSA 541-A:36, notwithstanding RSA 21-O:14.

Amend RSA 482-A:3, XI(h) as inserted by section 16 of the bill by replacing it with the following:

(h) Application fees shall be \$25 for residents of the state of New Hampshire and \$50 for out-of-state applicants. Fees shall be collected by the [wetlands board] **division** and held in accordance with paragraph III. [Small motor mineral dredging permits shall be valid for a period of one year.]

Amend RSA 482-A:6, III-IV as inserted by section 17 by replacing them with the following:

III. Whenever it is found that a wetlands is at immediate risk from dredging, filling, or other activity in violation of this chapter, the [board] ***division*** may issue an emergency order in writing requiring the immediate cessation of such activity. Any person to whom such an order is directed shall comply immediately, but may [ask for a rehearing and appeal to the superior court for the county where the land in question is located under the same procedures as are provided for appeals in RSA 677:2-14] ***request reconsideration and then appeal as provided in RSA 482-A:10.*** [Each appeal shall contain a detailed description of the land involved in the board's order. Service of the appeal shall be made on any member of the board and the superior court shall have the same jurisdiction to dispose of such appeals as is provided in RSA 677:2-14 governing appeals.]

IV. The [wetlands board] ***division*** may issue an order to any person in violation of this chapter, a rule adopted under this chapter or any condition in a permit issued under this chapter to comply with this chapter, the rule or the permit, and require such remedial measures as may be necessary. Any person to whom such an order is directed may [apply for a rehearing and may appeal to the superior court for the county where the land in question is located under the same procedures as are provided for appeals in RSA 677:2-14] ***request reconsideration and then appeal as provided in RSA 482-A:10.*** [Each appeal shall contain a detailed description of the land involved in the board's order. Service of the appeal shall be made on any member of the board and the superior court shall have the same jurisdiction to dispose of such appeals as is provided in RSA 677:2-14 governing appeals.]

Amend RSA 482-A:8 as inserted by section 18 of the bill by replacing it with the following:

482-A:8 Public Comment and Hearing. [The board shall hold a public hearing on proposals under RSA 482-A:3 in accordance with rules adopted by the board, within 60 days of the receipt of said notice, and shall notify by mail the person intending to do such excavating, removing, filling, dredging or altering, the local governing body of the municipality involved, the planning board, if any, the municipal conservation commission, if any, and the members of the board]. ***The division shall provide a reasonable opportunity for public comment on proposals under RSA 482-A:3 and shall hold a public hearing for projects with significant impact on the resources protected by this chapter or of substantial public interest. The division shall notify by mail, the applicant and the property owner if different, the local governing body of the municipality involved, the planning board, if any, and the municipal conservation commission, if any, of the hearing. The division shall maintain a chronological file of all applications received under RSA 482-A:3, which shall be available for public review during normal business hours.*** The [requirement of public] hearing ***requirement*** in this section may not apply to such minor projects and to such minor improvements of the shoreline of those waters subject to the jurisdiction of this chapter as the [board] ***division*** may by reasonable [general] rule provide[, and as to such projects initial review authority may be delegated to a subcommittee or the staff of the board]. ***The hearing requirements of RSA 541-A:30 shall be satisfied by a hearing on reconsideration in accordance with RSA 482-A:10, III.***

Amend RSA 482-A:10 as inserted by section 19 of the bill by replacing it with the following:

482-A:10 Appeals.

I. Any person aggrieved by a decision made by the division under RSA 482-A:3 or subject to an order of the division under RSA 482-A:6 may apply for reconsideration by the division, and then may appeal to the wetlands council and to the superior court as provided in this section. A person aggrieved under this section shall include without limitation, the applicant and any person required to be noticed by mail in accordance with RSA 482-A:8 and RSA 482-A:9.

II. A request for reconsideration shall be filed with the division within 20 days of issuance of the division's decision or order. The request for reconsideration shall describe in detail each ground for complaint. No ground not set forth in the request for reconsideration shall be considered by the council, or by the superior court except as provided in paragraph VIII of this section.

III. On reconsideration, the division shall receive and consider any new and additional evidence presented, and shall make findings of fact and rulings of law in support of its decision after reconsideration. The division may hold a public hearing in accordance with its rules. Reconsideration hearings shall not be subject to the requirements of RSA 541-A. Reconsideration hearings shall be noticed in accordance with RSA 482-A:8 and RSA 482-A:9, and the division shall make a record of the proceedings. The division shall grant or deny the application for reconsideration within 30 days of the service of the application or explain in writing to the applicant why the application cannot be acted on and a statement of the time reasonably necessary to act on the application.

IV. An appeal from a decision of the division after reconsideration shall be filed with the wetlands council within 30 days of the division's decision. Filing of the appeal shall be made by certified mail to the chairperson of the council, with a copy sent to the division. An appeal to the council shall contain a detailed description of the land involved in the division's decision and shall set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable.

V. The council on appeal shall hold a non-evidentiary hearing as provided in its rules. The hearing shall be noticed in accordance with RSA 482-A:8 and RSA 482-A:9. The division shall provide the council with its record of decision upon receiving notice of the hearing. The appeal shall be determined upon the record below. The burden of proof shall be on the party seeking to set aside the division's decision to show that the decision is unlawful or unreasonable. All findings of the division upon all questions of fact properly before it shall be prima facie lawful and reasonable.

VI. On appeal, the council may affirm the decision of the division or may remand to the division with a determination that the decision complained of is unlawful or unreasonable. The council shall specify the factual and legal basis for its determination and shall identify the evidence in the record that supports its decision.

VII. Any party aggrieved by a decision of the council may apply to the council for reconsideration within 20 days of the council's order. The council shall grant or deny the application for reconsideration at its first regularly scheduled meeting after service of the application. The council may grant such application if in its opinion good reason therefor is stated.

VIII. Any person aggrieved by a decision of the council after reconsideration may appeal to the superior court for the county where the land

in question is located by petition within 30 days of issuance of such decision. The petition shall set forth each ground upon which the decision is claimed to be unlawful or unreasonable, in whole or in part. No ground not set forth in the application for reconsideration shall be given any consideration by the court unless the court for good cause shown shall allow the appellant to specify additional grounds.

IX. In the case of a remand to the division by the council, the division may accept the council's determination and reissue a decision or order, imposing such conditions as are necessary and consistent with the purposes of this chapter, or may appeal as provided in paragraphs VII and VIII.

X. Any hearing by the superior court upon appeal under this section shall be given priority on the court calendar.

XI. On appeal to the superior court, the burden of proof shall be upon the party seeking to set aside the decision of the council to show that the decision is unlawful or unreasonable. The council's decision shall not be set aside or vacated, except for errors of law, unless the court is persuaded, by a preponderance of the evidence before it, that said decision is unjust or unreasonable.

XII. Any person whose rights may be directly affected by the outcome of the appeal may appear and become a party, or the court may order such persons to be joined as parties as justice may require.

XIII. Upon the filing of an appeal, the clerk of court shall issue an order requiring a certified copy of the record of the appeal to be filed with the court by the council. The record shall consist of the council's decision, the division's record of decision as submitted to the council and the record of the hearing before the council.

XIV. All evidence transferred by the council shall be considered by the court regardless of any technical rule which might have rendered the evidence inadmissible if originally offered in the trial of an action at law. The court may receive and consider such additional evidence as would be permissible under RSA 677:10.

XV. The final judgment upon every appeal shall be a decree dismissing the appeal, or vacating the decision complained of in whole or in part, as the case may be; but, in case such or decision is wholly or partly vacated, the court may also, in its discretion, remand the matter to the council for such further proceedings, not inconsistent with the decree, as justice may require.

XVI. An order of court to send up the record may be complied with by filing either the original papers or duly certified copies thereof, or of such portions thereof as the order may specify, together with a certified statement of such other facts as show the grounds of the action appealed from.

XVII. The court may take evidence or appoint a referee to take such evidence as it may direct and report the same with the referee's findings of fact and conclusions of law.

XVIII. If a permit is granted with respect to any activity proposed to be undertaken in or adjacent to a prime wetland as mapped, designated, and filed pursuant to RSA 482-A:15, the conservation commission or local governing body may appeal said decision to the superior court in the manner prescribed in this section. The filing of a request for reconsideration shall automatically stay the effectiveness of the division's decision relating to said prime wetland. Said stay shall remain in force until the division has issued its decision after reconsideration.

Amend the bill by inserting after section 19 the following new section and renumbering the original sections 20-33 to read as 21-34 respectively:

20 New Section; Damages. Amend RSA 482-A by inserting after section 10 the following new section:

482-A:10-a Damages.

I. If, upon appeal of the landowner, the superior court determines that the decision appealed from so exceeds the bounds of the police power as to constitute the equivalent of taking without compensation and that the land as so regulated meets the public purpose standards of this chapter, and if such ruling is affirmed on appeal or becomes the law of the trial by failure of the state to appeal, the superior court shall then proceed to the assessment of the landowner's damages. Unless the division, at this stage, consents to the reversal or modification of its decision by the superior court, that court shall first determine all questions of land title, after notice to all persons interested in the land, including notice by publication to any unknown owners, and then shall assess the damages of the landowner or landowners proceeding as provided in RSA 482:35-38, inclusive, and RSA 498-A:27, and may enter judgment against the state accordingly. The interest acquired by the state by virtue of such proceedings shall be a perpetual negative easement that the privately-owned land or interest in the land described in the proceedings shall not thereafter be excavated, removed, filled, dredged, canalized or ditched, subject to any such reasonable reservations to the landowner as the division may have stipulated to prior to the assessment of damages. The state may, in the alternative, purchase the land or interest in the land in fee simple or other acceptable title, or subject to acceptable reservations and exceptions, by agreement with the landowner. To satisfy any judgment or purchase agreement under this section, the governor and council, in their discretion, may draw their warrant on the marine fisheries fund, the fish and game fund, any other available appropriation for such purpose, or on any money in the treasury not otherwise appropriated, or any combination of such funds, as they may determine to be just and reasonable, or, in the alternative, they may certify a judgment to the next session of the general court for the passage of an appropriation of money sufficient to satisfy the same. The division may, in the name of the state, accept gifts of land or interests in land for the purposes of this chapter.

II. The use of the marine fisheries fund or the fish and game fund under paragraph I shall require a finding that the expenditure will be of substantial benefit to marine fisheries or to fish and wildlife, as the case may be, and the governor and council shall request the prior opinion of the fish and game commission in each such case.

Amend RSA 482-A:11, IV-VII as inserted by section 21 of the bill by replacing them with the following:

[IV. The board shall make written findings of fact in support of all decisions made on applications involving projects other than minor projects and improvements as defined pursuant to RSA 482-A:8.

V.] **IV.** The [board] **division** shall not grant a permit with respect to any activity proposed to be undertaken in or adjacent to an area mapped, designated and filed as a prime wetland pursuant to RSA 482-A:15 unless the [board] **division** first notifies the local governing body, the planning board, if any, and the conservation commission, if any, in the municipality within which the wetlands lie, either in whole or in part, of its decision. Any such permit shall not be issued unless the [board] **division** is able, specifically, to find [on the basis of] clear and convincing evidence

[in the record of the proceedings] *on the basis of all information considered by the division*, and after public hearing, that the proposed activity, either alone or in conjunction with other human activity, will not result in the significant net loss of any of the values set forth in RSA 482-A:1. This paragraph shall not be construed so as to relieve the [board] *division* of its statutory obligations under this chapter to protect wetlands not so mapped and designated.

[VI.] **V.** Notwithstanding any rules adopted by the [board] *commissioner* defining minor projects, a series of minor projects undertaken by a single developer or several developers over a period of 5 years or less may, when considered in the aggregate, amount to a major project in the opinion of the [board] *division*; all such related projects shall be subject to a public hearing as provided in RSA 482-A:8. A series of minor projects shall be considered in the aggregate if they abut or if they are a part of an overall scheme of development or are otherwise consistent parts of an eventual whole.

[VII.] **VI.** The [board] *commissioner* may adopt rules pursuant to RSA 541-A establishing an expedited application and permitting process for certain minimum *and minor* impact projects[, under which the department of environmental services may issue such permits without board action]. The provisions of RSA 482-A:3, I and paragraph III of this section shall apply.

SENATOR RUSSMAN: This is perhaps the most controversial bill that has come out of the Environment Committee for this session. I think that it is a reasonable compromise which changes the Wetlands Board to the Wetlands Council allowing the staff to make decisions and giving an appeals process to the Wetlands Council. The composition of the board was a key component in terms of coming to grips with resolving our differences. We think that we have done a reasonable job of that and we would ask that you support the committee's recommendation of ought to pass.

Amendment adopted.

Ordered to third reading.

HB 610-L, an act integrating changes in the municipal budget act into the laws relating to towns and school districts. Executive Departments and Administration Committee. Vote: 4-1. Ought to pass with amendment. Senator Colantuono for the committee.

5797L

Amendment to HB 610-LOCAL

Amend the bill by replacing all after the enacting clause with the following:

1 Definitions; Purpose. Amend RSA 32:3, V to read as follows:

V. "Purpose" means a goal or aim to be accomplished through the expenditure of public funds. In addition,[:

(a)] As used in RSA 32:8 and RSA 32:10, [V,] *I(e)*, concerning the limitation on expenditures, a line on the budget form posted with the warrant, or form submitted to the department of revenue administration, or an appropriation contained in a special warrant article, shall be considered a single "purpose."

[(b) As used in RSA 32:10, I-IV, concerning transfers of appropriations and records thereof, "purpose" refers, in addition, to individual line items in whatever detailed budget or chart of accounts is regularly used

by the municipality. The general wording of a vote adopting a budget or portion thereof shall not be considered a "purpose" to which an amount may be transferred.]

2 Budget Preparation. Amend RSA 32:5, I to read as follows:

I. The governing body, or the budget committee if there is one, shall hold at least one public hearing on each budget, not later than 25 days before each annual or special meeting, public notice of which shall be given at least 7 days in advance, and after the conclusion of public testimony shall finalize the budget to be submitted to the legislative body. ***Public hearings on bonds and notes in excess of \$100,000 shall be held in accordance with RSA 33:8-a, 1. Days shall be counted in accordance with RSA 21:35.***

3 Definition; Purpose. Amend RSA 32:10 to read as follows:

32:10 Transfer of Appropriations.

I. If changes arise during the year following the annual meeting that make it necessary to expend more than the amount appropriated for a specific purpose, the governing body may transfer to that appropriation an unexpended balance remaining in some other appropriation, provided, however, that:

[I.](a) The total amount spent shall not exceed the total amount appropriated at the town or district meeting.

[II.](b) Records shall be kept by the governing body, such that the budget committee, if any, or any citizen requesting such records pursuant to RSA 91-A:4, may ascertain the purposes of appropriations to which, and from which, amounts have been transferred; provided, however, that neither the budget committee nor other citizens shall have any authority to dispute or challenge the discretion of the governing body in making such transfers.

[III.](c) A statement comparing all legislative body appropriations against all expenditures shall be deemed adequate for purposes of the records required by [paragraph II] ***subparagraph (b)***, so long as every expenditure has been properly authorized and properly classified and entered and any expenditures exceeding the original legislative appropriations are offset by unexpended balances remaining in other appropriations, in which case the governing body shall not be required to designate the specific source of each transfer.

[IV.](d) Any amount appropriated at the meeting under a special warrant article may be used only for the purpose specified in that article and shall not be transferred.

[V.](e) The town or district meeting may vote separately on individual purposes of appropriation contained within any warrant article or budget, but such a separate vote shall not affect the governing body's legal authority to transfer appropriations, provided, however, that if the meeting deletes a purpose, or reduces the amount appropriated for that purpose to zero, that purpose shall be deemed one for which no appropriation is made, and no amount shall be transferred to or expended for such purpose.

II. As used in RSA 32:10, I(a)-(d), concerning transfers of appropriations and records thereof, "purpose" refers, in addition to its meaning in RSA 32:3, V, to individual line items in whatever detailed budget or chart of accounts is regularly used by the municipality. The general wording of a vote adopting a budget or portion of a budget shall not be considered a "purpose" to which an amount may be transferred. The definition of "purpose" as used in RSA 32:10, I(e) shall be the definition of "purpose" under RSA 32:3, V.

4 Emergency Expenditures and Overexpenditures. Amend the section heading of RSA 32:11 to read as follows:

32:11 [Emergencies] ***Emergency Expenditures and Overexpenditures.***

5 Effective Date. This act shall take effect 60 days after its passage.

SENATOR COLANTUONO: This bill creates technical corrections to the municipal budget act to conform to laws relating to the operations of towns and school districts; however, the Senate ED & A Committee made two important amendments on page 19. First of all, we took out the part of the law which would have dovetailed with HB 501 which the Senate has voted inexpedient to legislate. If you recall, that was the bill that required negotiated contracts to go to special meetings without an emergency. Since that bill died, we took that language out on page two. We also took the language out that allowed contracts which are signed after the time limit for getting a public hearing on them before they are posted on the warrant to go on the warrant. We believe that it was not right that collective bargaining agreements, which can involve huge amounts of money, can go onto the warrant without a public hearing. So we took that language out also.

Amendment adopted.

Ordered to third reading.

HB 1110-FN, an act establishing a study committee relative to electronic information in state government. Executive Departments and Administration Committee. Vote: 4-0. Ought to pass with amendment. Senator Rodeschin for the committee.

5802L

Amendment to HB 1110-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the acceptance of gifts of personal property
valued at over \$5,000 donated to public libraries.

Amend the bill by replacing all after the enacting clause with the following:

1 Acceptance of Personal Property Donated to Public Libraries; Value Over \$5,000.

Amend RSA 202-A:4-d, II to read as follows:

II. The warrant article may require that, prior to the acceptance of any [such] gift[,], valued at over [\$500] **\$5,000**, the public library trustees shall hold a public hearing on the proposed acceptance.

2 Contingency. If HB 1120 of the 1996 legislative session becomes law, section 1 of this act shall take effect at 12:01 a.m. on the effective date of HB 1120. If HB 1120 does not become law, then section 1 of this act shall not take effect.

3 Effective Date.

I. Section 1 of this act shall take effect as provided in section 2 of this act.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows towns to require, by warrant article, the holding of a public hearing by library trustees, prior to authorizing library trustees to accept a gift of personal property valued at over \$5,000. This bill is

contingent upon the adoption of HB 1120 of the 1996 legislative session, which allows towns to adopt a warrant article to accept personal property donated to libraries.

SENATOR RODESCHIN: HB 1110's amendment it becomes the bill. It was requested by the state librarian. What it does is it changes the \$500 figure to a \$5,000 figure before a public hearing is required. The committee voted ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1122, an act modifying the term "compact area" relative to the use of firearms and fireworks. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass with amendment. Senator Rodeschin for the committee.

5799L

Amendment to HB 1122

Amend the title of the bill by replacing it with the following:

AN ACT
modifying the term "compact area" relative
to the use of firearms.

Amend the bill by replacing section 1 with the following:

1 Reference to Fireworks Removed. Amend RSA 644:13, I to read as follows:

I. A person is guilty of a violation if, within the compact part of a town or city, [he] **such person** fires or discharges any cannon, gun, pistol, or other firearm[; or fires or discharges any rockets, squibs, or firecrackers], except by written permission of the chief of police or governing body.

Amend RSA 207:3-a as inserted by section 3 of the bill by replacing it with the following:

207:3-a Prohibition. It is unlawful for a person to discharge a firearm or to shoot with a bow and arrow within 300 feet of a permanently occupied dwelling without permission of the owner or the occupant of the dwelling or from the owner of the land on which the person discharging the firearm or shooting the bow and arrow is situated. Whoever violates the provisions of this section shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person.

AMENDED ANALYSIS

This bill modifies the term "compact area" relative to the use of firearms.

This bill also clarifies where it is prohibited to discharge a firearm on the land of another.

SENATOR RODESCHIN: HB 1122 simply modifies the term "compact area" where you can use firearms or fireworks. The committee voted ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1222, an act establishing a council on applied technology and innovation. Executive Departments and Administration Committee. Vote: 4-1. Ought to pass with amendment. Senator Keough for the committee.

5796L

Amendment to HB 1222

Amend RSA 12-H:1, I and II as inserted by section 1 of the bill by replacing them with the following:

I. There is established a council to gather and disseminate information relative to the application of technology-based innovations, inventions, adaptations, and other uses in or by the private and public sectors in New Hampshire. Specifically, the council shall study all relevant information in applied technology including, but not limited to:

(a) Promoting efficiencies in the work place.

(b) Providing tools to improve education techniques.

(c) Exploring ways by which technology may reduce the costs of state and local government operations.

(d) Identifying the means by which New Hampshire may become more attractive to technology-based business.

(e) Providing a forum for the sharing of information technology and its application in the private sector and this state's government.

(f) Identification of in-state resources for the use of state government and its development of information management systems.

(g) Development of a statewide information network linking all schools, state government, and state departments and businesses.

II. The council shall consist of the following members:

(a) Three house members appointed by the speaker, who are to be one member from the house science and technology committee, one member from the house commerce, small business, consumer affairs and economic development committee, and one member from the house education committee.

(b) Three senators appointed by the senate president, who are to be one member from the senate economic development committee, one member from the senate education committee, and one member from the senate public affairs committee.

(c) The governor or designee, the commissioner of the department of education, and the commissioner of the department of administrative services.

(d) Additional members as the council may deem appropriate, without restriction as to number. In order that its pool of information and resources is as broad as possible, the council is encouraged to recruit additional members, additional participants, and guest speakers, who may represent state or local government entities, private businesses, business or trade groups, or educational groups or institutions.

SENATOR KEOUGH: HB 1222 establishes a council to gather and disseminate information on the use of technology. Mr. President, the committee heard testimony that in one such informal discussion, one of our technology companies in New Hampshire offered a good solution to a problem that the Division of Health and Human Services has, so it is our hope that more brainstorming will lead to more efficiency in the state government. There is no appropriation associated with this. The committee urges its passage.

Amendment adopted.

Ordered to third reading.

HB 1303, an act relative to the rulemaking authority of the commissioner of transportation. Executive Departments and Administration Committee. Vote: 4-0. Ought to pass with amendment. Senator Rodeschin for the committee.

5618L

Amendment to HB 1303

Amend the bill by replacing section 4 with the following:

4 Repeal. The following provisions relative to the rulemaking authority of the commissioner of transportation are repealed:

I. RSA 21-L:12, VIII, relative to application for and approval of excavation permits.

II. RSA 21-L:12, IX, relative to application for and approval of drive-way permits.

III. RSA 21-L:12, X, relative to construction permits for drive-in theaters.

IV. RSA 21-L:12, XVIII, relative to transporting explosives.

V. RSA 21-L:12, XIX, relative to operating common carriers on public waters.

VI. RSA 21-L:12, XX, relative to regulating common carriers.

VII. RSA 21-L:12, XXII, relative to hearings relative to removal or discontinuing use of railroad track.

VIII. RSA 21-L:12, XXIII, relative to regulation of railroad rates, accounts and reports, and operations, as authorized by RSA 367:50-57.

IX. RSA 21-L:12, XXIV, relative to hearings on railroad operations complaints.

X. RSA 21-L:12, XLV, relative to regulating toll bridges and toll roads.

XI. RSA 158:12, relative to transporting explosives.

XII. RSA 21-L:12, XXI, relative to the removal of the discontinued use of a railroad track.

SENATOR RODESCHIN: HB 1303 was requested by the joint rules committee defining aircraft known as ultra lites. The repeals was requested by LBA. The amendment was two repeals that DOT forgot. The committee voted ought to pass as amended.

Amendment adopted.**Ordered to third reading.**

HB 1446-FN, an act establishing the New Hampshire board of hearing care providers, requiring audiologists to be licensed, and establishing certain fees. Executive Departments and Administration Committee. Vote: 5-0. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: This was a compromise with all parties. There was no opposition at the hearing and this was strongly supported by AARP. The committee would ask for your approval of ought to pass.

Adopted.**Ordered to third reading.**

HB 1453-FN, an act relative to divisions and employees of the liquor commission. Executive Departments and Administration Committee. Vote: 4-1. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: HB 1453 is reorganization of the Liquor Commission into a Bureau of Enforcement and Licensing and two other bureaus headed by administrators. This was a recommendation from the liquor commission audit. There is no fiscal impact on this because it will be absorbed in the present budget. These positions will be made within the ranks. The committee would ask you to support ought to pass.

SENATOR PODLES: Senator Rodeschin, this adds another layer to staff, could you tell us why this is necessary?

SENATOR RODESCHIN: This was requested by the audit of the Liquor Commission and they are answering the audit report. This was highly recommended. It is changing. There will be a person that will be involved with the finance and another one that will be involved in marketing. I guess what they are doing today is not working.

Adopted.

Ordered to third reading.

HB 1513, an act relative to filings and records held by the secretary of state. Executive Departments and Administration Committee. Vote: 4-0. Ought to pass with amendment. Senator Keough for the committee.

5805L

Amendment to HB 1513

Amend the title of the bill by replacing it with the following:

AN ACT

relative to filings and records held by the secretary of state
and relative to securities regulation.

Amend the bill by replacing all after section 5 with the following:

6 New Paragraphs; Definitions Added. Amend RSA 421-B:2, I to read as follows:

I. "Administrative hearing" means a proceeding in which the legal rights, duties, immunities or privileges of a respondent are required by law or rule to be determined by the bureau after an opportunity for a hearing.

I-a. "Advertisement" shall include any notice, circular, letter, or other written communication given to more than one person, or any notice or other announcement in any publication or verbal communication by radio, television, or other electronic media, which offers:

(a) Any analysis, report, or publication concerning securities or which is to be used in making any determination as when to buy or sell securities; or

(b) Any graph, chart, formula, or other device to be used in making any determination concerning when to buy or sell any security, or which security to buy or sell.

I-b. "Affiliate" means any person directly or indirectly controlling, controlled by, or under common control with another person.

7 Filing of Forms. Amend RSA 421-B:2, II(d) and (e) to read as follows:

[(e)](d) Effecting transactions in securities registered by notification under RSA 421-B:12 if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state[.]; or

[(d)](e) Effecting other transactions, if such individual is an officer or director of the issuer, no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state, and upon application, such individual is specifically authorized by name in an order issued by the secretary of state[.]; or]. **A Form U-4 as prepared by the National Association of Securities Dealers and the Securities and Exchange Commission shall be filed and authorization obtained from the secretary of state before any offers are made.**

8 Designated Matching Service. Amend RSA 421-B:2, III(c)-(e) to read as follows:

(c) A bank, savings institution or trust company; [or]

(d) A person who has no place of business in this state if he effects transactions in this state exclusively with or through:

- (1) The issuers of the securities involved in the transactions,
- (2) Other broker-dealers, or

(3) Banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit sharing trusts, or other financial institutions or institutional buyers, or to broker-dealers, whether the purchaser is acting for itself or in some fiduciary capacity; [or]

(e) A designated matching service; or

[(e)](f) Other persons not within the intent of this paragraph whom the secretary of state by rule or order designates.

9 New Paragraphs; Definitions Added. Amend RSA 421-B:2 by inserting after paragraph IV the following new paragraphs:

IV-a. "Branch office" means any office to which a broker-dealer directly or indirectly contributes to a substantial portion of the operating expenses and which is utilized by any person associated with the broker-dealer who is engaged in the investment banking or securities business, whether it be a commercial office space or residence, or an office for which the broker-dealer authorizes a listing in any publication or any other media, including a professional dealer's digest or a telephone directory, which listing designates a place as an office or if the broker-dealer designates any such place with any organization as an office.

IV-b. "Complaint" means a written statement submitted within a reasonable time following the incident complained of by a person, association, partnership, corporation, state agency (including the staff of the bureau) or by any other legal entity that sets forth specific allegations and requests administrative action by the bureau.

10 New Paragraphs; Definitions Added. Amend RSA 421-B:2 by inserting after paragraph V the following new paragraphs:

V-a. "Designated matching service" means a matching service designated by rule or order by the secretary of state under this section in accordance with RSA 421-B:17, II(s).

V-b. "Designated matching service facility" means an Internet location or computer system operated, or a seminar or meeting conducted, by a designated matching service in accordance with RSA 421-B:17, II(s).

V-c. "Ex parte communication" means the transmittal of information or argument concerning the merits of the subject matter of any adjudicatory proceeding to or from a decision maker in that proceeding without proper notice to and opportunity to participate in by all parties.

11 New Paragraph; Definition Added. Amend RSA 421-B:2 by inserting after paragraph VII the following new paragraph:

VII-a. "Hearing" means the receipt and consideration by the bureau of evidence or argument, or both, in accordance with these rules and applicable law, and includes:

- (a) Conducting trial-type evidentiary hearings;
- (b) Directing the filing of exhibits, affidavits, memoranda or briefs;
- (c) Directing the delivery of oral argument; or
- (d) Any combination of these or similar methods.

12 New Paragraph; Definition Added. Amend RSA 421-B:2 by inserting after paragraph IX the following new paragraph:

IX-a. "Investment advisory contract" means any contract or agreement whereby a person agrees to act as an investment adviser or to manage any investment or trading account for a person other than an investment adviser as defined in RSA 421-B:2, IX.

13 New Paragraph; Definition Added. Amend RSA 421-B:2 by inserting after paragraph XII the following new paragraph:

XII-a. "Investor member" means an investor who has been properly qualified by and uses a designated matching service. Any of the following investors are properly qualified: any institutional buyer as described in RSA 421-B:17, II(g), any accredited investor as defined in Regulation D, 230.501 of the Securities and Exchange Act of 1933; or any individual investor who certifies that such investor possesses sufficient knowledge and experience in business and financial matters so as to be capable of evaluating the merits and the risks of prospective investments.

14 Issuer-Dealer; Definition Modified. Amend RSA 421-B:2, XIII-a to read as follows:

XIII-a. "Issuer-dealer" means any person or a corporation having its principal office in this state, and issuing its own securities for sale directly to the [general public] ***any person who is not a general partner, executive officer, or director of the issuer.***

15 New Paragraph; Definition Added. Amend RSA 421-B:2 by inserting after paragraph XIII-a the following new paragraph:

XIII-b. "Issuer-member" means an issuer who uses a designated matching service facility in accordance with RSA 421-B:17, II(s).

16 New Paragraphs; Definitions Added. Amend RSA 421-B:2 by inserting after paragraph XVI the following new paragraphs:

XVI-a. "Petition" means a written request for action by the secretary of state including a staff petition for relief and any petition for rehearing pursuant to RSA 541.

XVI-b. "Presiding officer" means a person to whom the secretary of state has delegated the authority to preside over some or all of an administrative hearing.

17 New Paragraph; Definition Added. Amend RSA 421-B:2 by inserting after paragraph XVII the following new paragraph:

XVII-a. "Revocation" means the recall and cancellation of a license, registration or privilege for either a definite or indefinite period of time. A new application and fee shall be submitted prior to the issuance of a new license or registration if the applicant otherwise qualifies.

18 New Paragraph; Definition Added. Amend RSA 421-B:2, XIX-a to read as follows:

XIX-a. ***"Sanction" means any penalty imposed or authorized for imposition by the secretary of state, pursuant to RSA 421-B, including but not limited to license suspension or revocation, order to cease and desist or monetary penalties."***

[XIX-a]XIX-b. "Secretary of state" means the secretary of state or designee.

19 New Paragraph; Definition Added. Amend RSA 421-B:2 by inserting after paragraph XX the following new paragraph:

XX-a. "Staff" means the employees of the bureau including but not limited to classified employees, contract employees and shall include students involved in paid or unpaid programs.

20 New Paragraph; Definition Added. Amend RSA 421-B:2 by inserting after paragraph XXI the following new paragraph:

XXII. "Suspension" means the temporary recall or denial of any license, registration or privilege granted for a specified period of time. Such license, registration or privilege shall be reinstated and returned to the person when he otherwise qualifies without the necessity of a new application or fee, provided any suspended license, registration or privilege has not expired in the interim.

21 New Paragraphs; Broker Dealers. Amend RSA 421-B:6 by inserting after paragraph IV the following new paragraphs:

V. Prior to opening a branch office, a broker-dealer shall notify the secretary of state of the location of the branch office, telephone number, name of the individual supervising the office, and any other pertinent information required by the secretary of state.

VI. The following sales of securities shall not constitute acts requiring licensure as a broker-dealer, issuer-dealer, or issuer-dealer agent:

(a) Sales of securities made pursuant to qualified pension plans, qualified profit-sharing plans, and dividend reinvestment plans.

(b) Sales of securities of a corporation to its officers, its directors, and sales made pursuant to RSA 421-B:17, I(h).

(c) Sales or distributions of securities to majority owned subsidiaries.

VII. The following sales of securities shall not constitute acts requiring licensure as an issuer-dealer: RSA 421-B:17, I(a); (b); (h); (i); (j); (k); and II(a); (b); (d); (e); (f); (g); (j); (k); (l); (m); (n); (o); (p)(1); and (q).

22 New Paragraph; Registration of Mutual Funds. Amend RSA 421-B:15 by inserting after paragraph XIII the following new paragraph:

XIV. All mutual funds doing business in this state offering multiple classes of shares shall register each class individually, and pay the fee set forth in RSA 421-B:31, I(e). All mutual funds doing business in this state offering securities through a combined prospectus shall register each portfolio and each class thereof contained in the combined prospectus and pay the fees set forth in RSA 421-B:31, I, unless it can be shown that such securities are specifically exempted from registration under this chapter.

23 Certain Securities Exempted From Registration. Amend RSA 421-B:17, I(f)(1)(i) and (ii) to read as follows:

(i) The New York Stock Exchange, the American Stock Exchange, ***the Chicago Board Options Exchange***, or the National Association of Securities Dealers Automated Quotation Market System.

(ii) The Boston Stock Exchange[, the Chicago Board Options Exchange] or the securities designated by the board of governors of the Federal Reserve System as "O.T.C. Margin Stocks," if quotations have become available and public trading has taken place for such class of security prior to the offer or sale of that security in reliance upon this exemption.

24 Modification of Exemption. Amend RSA 421-B:17, I(h) to read as follows:

(h) Any interest in any employee's savings, stock purchase, pension, profit sharing or similar benefit plan, ***including, but not limited to a plan that provides for direct purchases of the employer's securities and options by employees*** or a self-employed person's retirement plan ***so long as the issuer's board of directors has approved the plan and its primary purpose is to benefit employees rather than to raise capital;***

25 Exempt Transactions. Amend RSA 421-B:17, II(a) and the introductory paragraph of II(b) to read as follows:

(a) Any isolated sales, whether or not effected through a broker-dealer, provided that no person shall make more than 5 sales, in total, of securities of the same issuer, in all jurisdictions combined, [pursuant to this exemption] ***other than those designed in RSA 421-B:17, I(h), II(g), II(l) and II(p)(1),*** during any period of 12 consecutive months; provided further that in the case of sales by an issuer, except sales of securities registered under the Securities Act of 1933 or exempted by section 3(b) of that act, the seller reasonably believes that all buyers are purchasing for investment.

(b) Any non-issuer distribution of an outstanding security, ***other than common stock***, rated in the top 3 categories of Moody's, Fitch's, or Standard & Poor's Securities Manuals if:

26 Exemption of Certain Venture Capital Transactions. Amend RSA 421-B:17, II(g) to read as follows:

(g) Any offer or sale to a bank savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, ***a venture capital company which operates a small business investment company under the Small Business Investment Act of 1958, as amended***, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity.

27 Information to be Filed With Secretary of State. Amend RSA 421-B:17, II(h)(3)(vi) and (vii) to read as follows:

(vi) A description of all sales of securities made by the issuer within the 12- month period next preceding the date of filing; [and]

(vii) A copy of the [investment letter] ***complete investment package***, if any, intended to be used in connection with any sale. ***This package shall include, if available, the investor letter, private placement memorandum, investor questionnaire, and subscription agreement;***

(viii) ***If the issuer has been in operation for at least one year, a copy of financial statements which are no more than 120 days old. Such financial statements shall be audited or certified and attested by the person responsible for preparing them;***

(ix) ***A Form U-4 as prepared by the National Association of Securities Dealers and the Securities and Exchange Commission for each officer or director who will be effecting transactions in New Hampshire pursuant to RSA 421-B:2, II(d);***

(x) ***The New Hampshire legend, pursuant to RSA 421-B:20;***

(xi) ***Uniform consent to service of process on Form U-20;***
and

(xii) ***If a corporation, Corporate Resolution on Form U-2a.***

28 New Subparagraph; Designated Matching Services. Amend RSA 421-B:17, II by inserting after subparagraph (r) the following new subparagraph:

(s)(1) The use of a designated matching service facility by an issuer-member shall not constitute an offer to purchase or sell within the meaning of RSA 421-B:2, XIX.

(2) A person may apply to the secretary of state to be a designated matching service by filing an application for designation as matching service, as defined by the secretary of state. No designation will be made unless the applicant demonstrates that it:

(i) Owns or will own, operates or will operate, sponsors or will sponsor, or conducts or will conduct a matching service facility limited to providing investor members with the investor packages and identities of issuer-members;

(ii) Enforces the requirement that each issuer-member, prior to the sale of securities, complies with RSA 421-B:11;

(iii) Will not be involved in any manner in the sale, offer for sale, solicitation of a sale, or offer to buy a security other than as set forth in subparagraph (2)(i);

(iv) Believes, after making a reasonable factual inquiry, that any person who uses the matching service facility in the capacity of an investor is a properly qualified investor member;

(v) Is a governmental entity, quasi-governmental entity, an institution of higher education or a domestic nonprofit corporation that is associated with a governmental or quasi-governmental entity or an institution of higher education;

(vi) Does not employ any person required to be registered under this chapter as a broker-dealer, investment adviser, salesman, or agent;

(vii) Does not have, and does not employ any person who has, a business relationship with any investor member or issuer-member other than to provide such member access to the matching service facility;

(viii) Charges fees only in an amount necessary to cover its reasonable operating costs and that are unrelated to the amount of money being raised by any issuer-member or the amount of securities sold by any member;

(ix) Agrees not to use any advertisement of its matching service facility that advertises any particular issuer or any particular securities or the quality of any securities or that is false or misleading or otherwise likely to deceive a reader thereof, and upon objection by the secretary of state, agrees to cease any advertisement;

(x) Agrees not to publish or distribute any issuer-member material to which the secretary of state raises objection, and upon objection by the secretary of state, agrees to cease any publication of such material;

(xi) Enforces the requirement that no issuer-member will make a sale of securities until 5 calendar days after delivery to the purchaser of a final offering circular or final documents; and

(xii) Meets such other conditions as the secretary of state considers appropriate for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter and the rules adopted under this chapter.

(3) Designation under this subparagraph is not available to any matching service formed in a manner that constitutes part of a scheme to violate or evade the provision of this chapter or rules adopted under this chapter.

(4) The secretary of state, upon 10 days' notice and after a hearing, may withdraw a person's designation as a matching service if the person does not meet the standards for designation provided in this section.

29 Timing Modification. Amend RSA 421-B:17, II(k) to read as follows:

(k) Any offer or sale of securities, including offers and sales pursuant to preorganization subscriptions for the securities of an issuer to be formed, by a corporation, limited partnership, or limited liability company having its principal office in this state if, after giving effect to the sale, the aggregate number of holders of all of the issuer's securities, all of whom shall have purchased for investment, does not exceed 10, exclusive of persons designated in subparagraph (g), provided that no commission or other remuneration has been paid and no advertising has been published or circulated in connection with any such sale, and all sales are consummated within [30] **60** days after [commencement of business by] **the date of incorporation or formation of** the issuer. The secretary of state may by rule or order increase the number of persons to whom sales may be made under this exemption.

30 Technical Change. Amend the introductory paragraph of RSA 421-B:17, II(p) to read as follows:

(p) Any transaction pursuant to an offer to existing security holders of the issuer, where the securities held by such existing security holders were issued by the issuers for value, including, **but not limited to**, persons who at the time of the transaction are holders of convertible securities, non-transferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if:

31 Conspicuous Notice. Amend RSA 421-B:20, II to read as follows:

II. The full text of paragraph I shall be reproduced, in type no smaller than [10 point size, on the cover page] **12 point boldface type, on any one of the first 5 pages** of any prospectus or other offering document, when offered to New Hampshire residents in a private offering. Public offerings shall bear either a legend approved by the North American Securities Administrators Association, Inc.[]; **such as** the modified Federal Regulation S-K legend[] or the legend required on Form U-7 which is required for offerings not federally registered.

32 New Paragraph; Administrative Penalties. Amend RSA 421-B:26 by inserting after paragraph III the following new paragraph:

III-a. Every person who directly or indirectly controls a person liable under paragraph I or II, every partner, principal executive officer, or director of such person, every person occupying a similar status or performing a similar function, every employee of such person who materially aids in the act or transaction constituting the violation, and every broker-dealer or agent who materially aids in the acts or transactions constituting the violation, either knowingly or negligently, violates any provisions of RSA 421-B:3, 421-B:4, 421-B:5, 421-B:6, 421-B:11, 421-B:19, or 421-B:23 may, upon hearing, and in addition to any other penalty provided for by law, be subject to such suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal penalties imposed pursuant to RSA 421-B:24 or civil liabilities imposed pursuant to RSA 421-B:25. No person shall be liable under this paragraph who shall sustain the burden of proof that such person did not know, and in the exercise of reasonable care could not have known, of the existence of facts by reason of which the liability is alleged to exist.

33 New Paragraph; Administrative Penalties. Amend RSA 421-B:26 by inserting after paragraph VII the following new paragraph:

VIII. Any person who, either knowingly or negligently, engages in any conduct prohibited by RSA 421-B:10, I(b)(2), (7), (10), (12), or (13) may, upon hearing, and in addition to any other penalty provided for by law, be subject to an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal penalties imposed pursuant to RSA 421-B:24 or civil liabilities imposed pursuant to RSA 421-B:25.

34 New Section; Hearing Procedures. Amend RSA 421-B by inserting after section 26 the following new section:

421-B:26-a Hearing Procedures.

I. Notwithstanding any other law to the contrary, all adjudicatory proceedings pursuant to this chapter shall be conducted by the secretary of state or by a presiding officer appointed by the secretary of state. All hearings conducted pursuant to this chapter shall be governed by the provisions of this section and the provisions of RSA 541-A shall not apply to this chapter.

II. A document shall be considered filed when it is actually received at the bureau's office in Concord, New Hampshire, and conforms to the requirements of this chapter.

III. For the purposes of this section:

(a) All complaints, petitions, motions, responses and replies shall be signed by the proponent of the document or, if the party appears by a representative, by the representative.

(b) License, registration and exemption applications shall be signed only by the applicant or properly authorized designee.

(c) The signature on a document filed with the bureau shall constitute a certification that:

(1) The signor has read the document and is authorized to file it;

(2) There are good grounds to support the representations made therein; and

(3) The document has not been filed for purposes of delay or harassment.

(d) A willful violation of subparagraph (c), shall, to the extent consistent with the policy of the statutes administered by the secretary of state, be a basis for entering an order adverse to the party committing the violation.

IV. Within a reasonable time after receipt of a complaint:

(a) The bureau staff or a presiding officer shall review the complaint to determine whether any basis exists for administrative action.

(b) If the complaint is insufficient or no basis exists which warrants administrative action, the complaint shall be dismissed and no hearing shall be scheduled on such complaint.

(c) If the staff determines that sufficient basis exists which warrants administrative action, the staff shall petition the secretary of state for relief.

(d) On any complaint, the staff shall temporarily defer any action and refer the subject matter of the complaint to the appropriate agency if a more complete investigation is necessary. The results of the investigation shall be used to determine the necessity of conducting a hearing by the bureau.

V. Within a reasonable time after receipt of a petition:

(a) The secretary of state may issue an order either denying or granting the petition or granting in part and denying in part. If any part of the petition is granted, the respondent shall be informed, as part of the hearing notice, of his right to a hearing.

(b) A petition may include a request for summary action prior to a hearing.

(c) The staff may, sua sponte, petition for relief whenever it has reasonable grounds to believe that a violation of law or rule has occurred, is occurring or is about to occur.

VI. Notices of hearings shall:

(a) Be prepared and forwarded in a manner which affords interested persons sufficient opportunity to prepare for and deal with the issues to be considered and decided upon at the hearing.

(b) Given in writing and addressed to the address of record of the person being called in for the hearing. The notice shall be prepared on an official form of the department and shall be sent in a sealed envelope through the United States mail, personal services, or by Federal Express or other similar delivery service.

VII. A notice of hearing shall include:

(a) The time, date, and location of the hearing.

(b) The statute or rule which has allegedly been violated and a statement of the legal authority under which the hearing is to be held.

(c) An explicit description of the alleged violation or a copy of the complaint or petition for relief or both the copy of complaint and petition for relief.

VIII. Each hearing shall be set for a date as soon as practicable after the complaint has been received and reviewed. The hearing shall be scheduled to allow sufficient and reasonable time for the preparation of the case by both the bureau and interested parties.

IX. A request for continuance of a hearing shall be made in writing and received by the bureau, absent exigent circumstances, at least 5 working days prior to the hearing. Exigent circumstances are described as, but not limited to:

- (a) Absence from the jurisdiction;
- (b) Serious illness;
- (c) Hospitalization;
- (d) Death of a family member.

X. The written request or motion for continuance shall contain the following:

- (a) The specific reason or reasons for the request; and
- (b) Optional dates and times when all interested parties shall be available.

XI. Each presiding officer may, at any stage of the hearing process, withdraw from a case if the presiding officer has or has had a personal or business relationship with any party, witness or representative, that may hinder such presiding officer from being able to arrive at an impartial decision on the issue or issues, or for any other reason that may interfere with the presiding officer's ability to remain impartial.

XII. Parties shall have the right to:

- (a) Appear pro se or be represented by an attorney.
- (b) Cross-examine witnesses, and
- (c) Present evidence and witnesses on their own behalf.

XIII. Except as provided as follows, administrative hearings shall be open to the public:

(a) The presiding officer may, on the presiding officer's own motion or at the request of a party, rule that the public be excluded from a hearing if necessary, pursuant to RSA 91-A:3, II, to protect the interests and rights of the parties to the hearing.

(b) In matters involving sensitive issues, a presiding officer may consult with the office of the attorney general for a ruling on the privacy issue.

(c) Members of the press shall be admitted to the hearing whenever the public is permitted. If the press is present at a hearing, the presiding officer shall brief them, off the record, in the presence of all parties, as to the nature and purpose of the hearing.

(d) In the event a party objects to the attendance of persons not involved in the hearing, the presiding officer shall ascertain the reason for such objection and determine whether the reason given justifies closing the hearing to such persons.

XIV. Subject to the laws governing the department of state, and within the general scope of his powers, each presiding officer shall have the authority to:

- (a) Schedule and hold hearings.
- (b) Administer oaths and affirmations.
- (c) Issue subpoenas on behalf of the state.

- (d) Determine the order of proof in any proceeding.
 - (e) Receive relevant evidence and rule on offers of proof in hearings.
 - (f) Take judicial notice of any facts which are of common knowledge and general notoriety.
 - (g) Take, or cause to be taken, depositions.
 - (h) Regulate and control the course of an administrative hearing.
 - (i) Hold conferences for the settlement or simplification of issues, or for obtaining stipulations as to issues of facts or proof by consent of the parties.
 - (j) Dispose of procedural requests, including adjournments or continuances at the request of the parties or on the presiding officer's own motion.
 - (k) Interview and examine witnesses and parties as the case may require.
 - (l) Direct parties to appear at hearings.
 - (m) Consider and evaluate the facts and evidence on the record in making findings of fact and conclusions of law and dispositions.
 - (n) Determine credibility or weight of evidence in making findings of fact and conclusions of law.
 - (o) Render oral and written decisions, reports or recommendations as authorized by statute or rule.
 - (p) Take any action in a proceeding necessary to conduct and complete the case, consistent with applicable statutes, rules, and precedents.
- XV. During any proceeding, the secretary of state shall, upon motion or upon his own motion, direct all parties to attend an informal conference to aid in the disposition of the proceeding. Such conferences:
- (a) May be recorded unless all parties wish to discuss possible settlements off the record. Such recordings shall be part of the record.
 - (b) Shall be held, in addition to settlement possibilities, to consider:
 - (1) Possible simplification of the issues.
 - (2) Possible amendments to the pleadings.
 - (3) Possible admissions of fact, admissions of documents or other stipulations which might avoid unnecessary proof.
 - (4) The identification and possible limitations on the number of witnesses.
 - (5) Possible changes to the method of proceeding or hearing schedule which would otherwise be applicable.
 - (6) The distribution of written testimony, if any, and exhibits to the parties.
 - (7) Possible consolidation of the examination of witnesses by the parties.
 - (8) Any other matters which might contribute to the prompt, orderly and fair conduct of the proceeding.

A prehearing conference or other informal conference shall be conducted in person or, with the consent of the parties, shall be conducted by means of electronic communications.

XVI. The presiding officer shall cause the administrative hearing to be electronically recorded. Such recording shall be made available, upon written request by a party and upon a fee sufficient to reimburse the full cost of providing the tape, a true and accurate copy of such tape or tapes. A party may request, in writing, a transcript of the hearing but shall first pay the full costs for such transcription as determined by the secretary of state.

XVII. In the event there is a clear dispute of facts between the parties in which credibility of testimony will determine the outcome of the hearing, the presiding officer on his own motion or that of a party, may sequester witnesses until they are called to testify.

XVIII. In any administrative hearing in which administrative action affecting the rights or privileges of any party may be taken, an oath or affirmation shall be administered by the presiding officer to each witness prior to receiving testimony, provided, however, that if a witness asserts an objection to the taking of an oath for religious or other related reasons, an affirmation shall be administered. Once a witness has been sworn at any hearing, it shall not be necessary to swear the witness again for subsequent testimony on the same day and in the same case. The record of the proceeding shall indicate that a person was recalled to testify and reminded that such person was still under oath or affirmation.

XIX. Motions shall be in written form unless presented at the hearing. Written notions shall be included in the record of the proceeding and filed together with the case file. Oral motions shall be recorded in full in any transcript of the proceeding or, at the discretion of the presiding officer, noted in the minutes of the proceeding and submitted in written form within a reasonable time. A presiding officer may rule upon a motion when made or may defer decision until a later time in the hearing, or until after the conclusion of the hearing.

XX. Administrative hearings shall not be bound by common law or statutory rules of evidence, nor by technical or formal rules of procedure. All relevant, material and reliable evidence shall be admissible. Such evidence may include, but shall not be limited to, depositions, affidavits, official documents, and testimony of witnesses. Provided, however, the presiding officer may, in the presiding officer's discretion, exclude any irrelevant, immaterial, unreliable or unduly cumulative or repetitious evidence. Applicable statutory and constitutional provisions and immunities requiring exclusion of evidence in civil proceedings shall be recognized, provided, however, that nothing contained herein shall prohibit a party from waiving such party's privilege or immunity.

XXI. Within a reasonable time after the hearing, the presiding officer shall issue a written decision stating the action to be taken by the bureau and may set forth findings of fact, conclusions of law and disposition. All decisions shall be reached upon the basis of a preponderance of the evidence. The decision of the presiding officer shall be construed as the decision of the secretary of state.

XXII. Any party to whom notice has been forwarded pursuant to and in accordance with these rules who fails to appear shall have a default judgment rendered against him.

XXIII. The presiding officer may take judicial notice.

XXIV. Where the interests of justice will be better served without prejudice to the substantial rights of any party, a presiding officer may sever one case from another or may consolidate 2 or more cases, preserving to all parties the right of appeal from the single or several decisions rendered.

XXV. Once a hearing notice has been issued commencing an adjudicatory proceeding, no party shall communicate with the presiding officer or the secretary of state concerning the merits of the case except upon notice to all parties nor shall any party cause another person to make such communications.

XXVI. Within 30 days after a final decision, any party may file a motion for reconsideration which shall serve as a petition for rehearing under RSA 541. No distinctions shall be made between the terms "reconsideration" and "rehearing." A motion for reconsideration shall:

(1) Identify each error of law, error of reasoning, or erroneous conclusion contained in the final order which the moving party wishes the secretary of state to reconsider.

(2) Concisely state the correct factual finding, correct reasoning, and correct conclusion being advocated.

(3) Include any memorandum of law the petitioner wishes to submit.

XXVII. Within 30 days after a final decision, the presiding officer may reconsider, revise or reverse any final action on the presiding officer's own motion. If reconsideration is based upon the existing record, prior notice shall not be given to the parties. If the presiding officer believes further information or argument should be considered, the parties shall be provided with an appropriate notice and opportunity to be heard before any revision is made in the previous action.

XXVIII. The filing of a motion for reconsideration shall not operate as a stay of any order or decision, but a motion for stay may be combined with a motion for reconsideration.

35 Rulemaking. Amend RSA 421-B:28, IV to read as follows:

IV. All actions undertaken by the *secretary of state* pursuant to this section shall be taken only when the secretary of state finds such action necessary or appropriate to the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this title. In adopting rules [and], preparing forms, *setting standards, and reviewing offerings*, the secretary of state may cooperate with the securities administrators of other states, *self regulatory organizations*, and the Securities and Exchange Commission [with a view to implementing] *in order to implement* the policy of this chapter *in an efficient and effective manner and* to achieve maximum uniformity in the form and content of registration statements, applications, [and] reports , *and requirements for issuers, broker-dealers, and investment advisors*, where practicable.

36 Scope of Chapter. Amend RSA 421-B:30, VI to read as follows:

VI. RSA 421-B:3, [RSA 421-B:6, III, so far as investment advisers are concerned,] *RSA 421-B:4*, and RSA 421-B:5, so far as any person is concerned, *and RSA 421-B:6, so far as investment advisors are concerned*, apply when any act instrumental in effecting prohibited conduct is done in this state, whether or not either party is then present in this state.

37 Filing of a Consent. Amend the introductory paragraph of RSA 421-B:30, VII to read as follows:

VII. Every applicant for licensing under this chapter and every issuer who proposes to offer a security in this state through any person acting on an agency basis in the common-law sense shall file with the secretary of state, in such form as [he] *the secretary of state* prescribes by rule, irrevocable consent appointing the secretary of state to receive service of any lawful process in any non-criminal suit, action, or proceeding against [him] *the applicant* or [his] *the applicant's* successor, executor, or administrator which arises under this chapter or any rule or order under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a pre-

vious registration need not file another. *In instances where an offering is firmly underwritten, the issuer shall not be required to file a consent.* Service may be made by leaving a copy of the process in the office of the secretary of state along with \$5, but it is not effective unless:

38 Annual Fee; Individual Class of an Issue. Amend RSA 421-B:31, III to read as follows:

III. The annual fee for an issuer of open-end mutual funds, to be paid to the secretary of state on or before May 1 of each year, shall be \$1,000 for each individual [series] **class** of an issue.

39 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill makes technical corrections and clarifications to statutes governing filings and records held by the secretary of state.

The bill also makes a variety of changes to RSA 421-B, relative to securities regulation.

SENATOR KEOUGH: This bill makes technical corrections and clarifications to statutes governing filings and records held by the secretary of state. The amendment as adopted by the committee, also gives the secretary of state's office the statutory authority to participate with the SBA in a very exciting and innovative capital formation program using the Internet. We have a couple of professors over at UNH who for sometime have been very active in studying how small emerging companies are financed from what is commonly known as venture capital angels. They stand a very good chance of being able to receive SBA funding to advance that concept and this statutory authority is necessary. It was adopted unanimously by the committee and we urge your support.

Amendment adopted.

Senator Keough offered a floor amendment.

5811L

Floor Amendment to HB 1513

Amend RSA 421-B:17, I(f)(1)(i) and (ii) as inserted by section 23 of the bill by inserting after subparagraph (ii) the following new subparagraph:

(iii) Upon petition by an exchange and after review of such exchange's performance, its memorandum of understanding with the North American Securities Administrators Association and upon review of any other information the secretary of state may require, the secretary may by order designate such exchange as qualified under subparagraph (i) or (ii) for the exemption provided by subparagraph (f)(1).

SENATOR KEOUGH: For the purpose of attending to a housekeeping matter, when the original amendment was printed, through the cutting and pasting operation at Legislative Services, one paragraph was inadvertently omitted, this amendment corrects that.

Floor amendment adopted.

Ordered to third reading.

HB 1611-FN, an act establishing a sunrise program. Executive Departments and Administration Committee. Vote: 4-1. Inexpedient to legislate. Senator Keough for the committee.

SENATOR KEOUGH: This bill attempts to establish criteria that the legislature would have to abide by before introducing legislation to li-

cense activities that are not currently licensed. While we certainly think that it is a good idea that the legislature act responsibly before it sets out to license new business activities, we feel that it is not appropriate to put the legislature in a position to make certain findings or comply with certain criteria before setting legislation, so we reported this bill out as inexpedient to legislate and we urge you to support the committee report.

Committee report of inexpedient to legislate is adopted.

HB 1104, an act relative to illegal night hunting. Fish and Game/Recreation Committee. Vote: 4-0. Inexpedient to legislate. Senator Wheeler for the committee.

SENATOR WHEELER: This bill would have made changes in the way that the Fish and Game Department prosecuted illegal nighttime hunting. The committee thought that the change was inappropriate in that it would only require the mere possession of a flashlight or a firearm to create the presumption of knowingly. We ask for your support of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1162-FN, an act relative to making a supplemental appropriation for the veterinary diagnostic laboratory in the agriculture experiment station at the university of New Hampshire. Fish and Game/Recreation Committee. Vote: 4-1. Ought to pass. Senator Pignatelli for the committee.

SENATOR PIGNATELLI: This bill makes a supplemental appropriation for the veterinary diagnostic laboratory in the agriculture experiment station at the University of New Hampshire. The committee voted ought to pass and I urge you to do the same.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 1163-FN, an act requiring archery license applicants to complete a mandatory bow hunter education course. Fish and Game/Recreation Committee. Vote: 4-0. Ought to pass. Senator Rodeschin for the committee.

SENATOR RODESCHIN: This bill is for straight shooters. The bill requires that archery license applicants complete a mandatory bow hunter education course. The bill was supported by Fish and Game and many other groups, including New Hampshire Wildlife Federation. The committee voted ought to pass.

Adopted.

Ordered to third reading.

HB 1164, an act making it illegal to train dogs to hunt bobcat. Fish and Game/Recreation Committee. Vote: 3-1. Ought to pass. Senator Cohen for the committee.

SENATOR COHEN: There has been no season on bobcats since 1989 and the population continues to be low. The Fish and Game supports this bill and I urge your support on its passage.

Adopted.

Ordered to third reading.

Senator Wheeler in opposition to HB 1164.

HB 1550, an act relative to a lobster management plan and relative to lobster and crab licenses. Fish and Game/Recreation Committee. Vote: 4-0. Ought to pass with amendment. Senator Cohen for the committee. 5790L

Amendment to HB 1550

Amend RSA 211:18, II(g) as inserted by section 1 of the bill by replacing it with the following:

(g) Three lobster industry representatives, one of whom shall be a lobster fisherman fishing 100 or fewer traps, appointed by the governor and council.

SENATOR COHEN: HB 1550 recognizes the fact that we are in fact over fished. That management is needed to preserve the stock. This bill, if passed with the amendment, will make sure that lobstering does not go the same way as ground fishing. The amendment includes, adds a voice for the small lobstermen as well as the large lobstermen. The committee urges passage as amended.

Amendment adopted.

Ordered to third reading.

HB 547-FN-L, an act establishing a deferred compensation plan for volunteer firefighters. Insurance Committee. Vote: 4-0. Ought to pass with amendment. Senator Fraser for the committee.

5800L

Amendment to HB 547-FN-LOCAL

Amend RSA 100-B:5, II as inserted by section 1 of the bill by replacing it with the following:

II. The distribution shall occur as a lump sum or as a single premium annuity, payable to the member, or to the named beneficiary or beneficiaries of the member, in the case of distribution after the member's death.

Amend RSA 100-B:8, I as inserted by section 1 of the bill by replacing it with the following:

I. A length of service awards program committee is established to administer this program. The committee shall consist of 7 members as follows:

(a) Two public members, one of whom shall be appointed by the president of the senate and one of whom shall be appointed by the speaker of the house of representatives.

(b) One member appointed by the New Hampshire Municipal Association.

(c) One member appointed by the fire standards and training commission, who shall be a volunteer firefighter and who shall not be a member of the fire standards and training commission.

(d) One member appointed by the New Hampshire Association of Fire Chiefs, who shall be a chief of a volunteer fire department.

(e) Two members appointed by the New Hampshire Firemen's Association, who shall be volunteer firefighters.

Amend RSA 100-B as inserted by section 1 of the bill by inserting after section 12 the following new section:

100-B:13 Eligibility Exemption.

I. All volunteer and call firefighters who have completed 5 or more years of service as volunteer or call firefighters shall be eligible for participation in the deferred compensation plan on January 1, 1997, even if they are not level one certified.

II. All volunteer and call firefighters who have completed less than 5 years of service as volunteer or call firefighters and who are not level one certified shall be eligible for participation in the deferred compensation plan from the start of their volunteer service, provided that they obtain level one certification within 2 years.

III. All volunteer and call firefighters who have completed less than 5 years of service as volunteer or call firefighters and who are not level one certified shall receive credit for 2 years of volunteer service eligibility in the deferred compensation plan if they take longer than 2 years to obtain level one certification.

IV. All other volunteer and call firefighters shall meet the criteria set forth in RSA 100-B:3, II.

SENATOR FRASER: This bill, Mr. President, establishes a length of service award program for volunteer firefighters and volunteer emergency medical personal. The bill enables a community to establish a deferred compensation plan for volunteer firefighters who serve in their community for more than five years. Both the community and the volunteer firefighters would contribute to the plan. There is no requirement for a town to participate, as a matter of fact, the plan must be approved by two-thirds vote of their legislative body of each community that wants to participate. There is no cost to the state for this program. The amendment makes three changes which are reported on the page 33. The first change provides a choice of payment options when firefighter retires. The second change adds two members of the New Hampshire Firemen's Association to the committee established to oversee the program. The last change clarifies the eligibility requirements for firefighters who are not yet certified as level one firefighters. Mr. President, this bill was unanimously adopted by the committee and we urge your support.

Amendment adopted.

Ordered to third reading.

HB 606-L, an act excluding certain welfare recipients from the definition of public employee under the workers' compensation law. Insurance Committee. Vote: 7-0. Ought to pass with amendment. Senator F. King for the committee.

5639L

Amendment to HB 606-LOCAL

Amend RSA 281-A:2, VII(b) as inserted by section 1 of the bill by replacing it with the following:

(b) "Employee," with respect to public employment shall not include any inmate of a county or state correctional facility who is, under RSA 651, required or allowed to work or perform services for which no significant remuneration is provided, or any participant performing community service work under a court order or the provisions of a court diversion program. ***"Employee", with respect to public employment, shall include any person participating in a local welfare work program established under RSA 165:31; however, the local governing body may vote to make the provisions of this chapter not applicable to local welfare work program participants through guidelines adopted under RSA 165:1, II.***

AMENDED ANALYSIS

This bill includes welfare recipients who participate in a local welfare work program from the definition of public employee for the purposes of the workers' compensation law, unless the local governing body excludes such participants.

The bill also clarifies participation in and credit for a municipal work program.

SENATOR F. KING: This bill includes welfare recipients who participate in local welfare programs in the definition of public employee for the purposes of workers' compensation law, unless the local governing body excludes them under RSA 165:31. The bill also clarifies participation in and credit for municipal work programs. Originally the bill would have excluded the welfare recipients unless the town qualified them, but the committee amended the bill to include recipients unless the town took action to exclude them. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1207, an act relative to coinsurance payments for covered services. Insurance Committee. Vote: 7-0. Ought to pass with amendment. Senator Fraser for the committee.

5785L

Amendment to HB 1207

Amend the title of the bill by replacing it with the following:

AN ACT

relative to coinsurance payments for covered services and
to health benefit plans sponsored by qualified
franchise associations.

Amend section 1 of the bill by replacing it with the following:

1 Purpose. The purpose of section 2 this act is to increase fairness in the practices of insurance companies, health maintenance organizations, and other risk assuming entities doing business in New Hampshire.

Amend the bill by replacing all after section 2 with the following:

3 Applicability. Section 2 of this act shall apply to all policies, contracts, or certificates issued or renewed in this state on and after January 1, 1997.

4 New Paragraph; Definition; Qualified Franchise Association. Amend RSA 420-G:2 by inserting after paragraph IX the following new paragraph:

IX-a. "Qualified franchise association" means a national association of franchise operators in existence since 1975 which provides fully insured health benefit plans through a licensed carrier to at least 5,000 employees and/or dependents of the national association of franchise operators.

5 New Section; Health Benefit Plans Sponsored by Qualified Franchise Associations. Amend RSA 420-G by inserting after section 5 the following new section:

420-G:5-a Health Benefit Plans Sponsored by Qualified Franchise Associations. A health benefits plan sponsored by a qualified franchise association as defined in RSA 420-G:2, IX-a shall not be required to comply with the community rating methodology outlined in RSA 420-G:4, I(a)(1)-(6) with respect to franchisees who are small employers, provided

the claims experience of all participating franchisees is aggregated for rating purposes. A health benefits plan sponsored by a qualified franchise association shall comply with all other provisions of RSA 420-G to the extent that provisions of the plan relate to small employers.

6 Effective Date. This act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill requires any coinsurance for a covered service that is payable by the insured to the service provider to be calculated as a percentage of the amount paid by the carrier for such service at the time of the service as negotiated between the service provider and the carrier.

The bill also defines "qualified franchise association" and, in certain circumstances, exempts health benefit plans sponsored by such associations from having to comply with certain community rating methodologies.

SENATOR FRASER: Mr. President, HB 1207 puts into statute, the current practice of insurers who in calculating copayments as a percentage of the total payment. The bill was recommitteed if you recall, Mr. President, and we held a second public hearing having to do with the problem that we were having with McDonald's franchises. The committee amended the bill to exempt McDonald's from the community rating requirements which was SB 711. McDonald's franchises offer insurance to their employees from a plan that is community rated for all McDonald's franchises in the country. This rating service is less costly for franchise owners when compared to having to enter the New Hampshire Community Rating System as an individual small business. The franchises are still practicing the concept of community rating put forth in SB 711, but through their national policy. The franchises do abide by the other tenets of SB 711 that other small businesses in New Hampshire abide by. The committee was unanimous in adopting the contents of the amendment and the original bill.

Amendment adopted.

Senator Danaïs offered a floor amendment.

5806L

Floor Amendment to HB 1207

Amend RSA 420-I:4, I as inserted by section 2 of the bill by replacing it with the following:

I. The commissioner of insurance shall enforce this chapter and shall adopt rules under RSA 541-A as are reasonably necessary for the proper enforcement of this chapter.

SENATOR DANAIS: I have a floor amendment that changes one word from "may" to "shall" concerning making rules under RSA 541-A. This was the original amendment offered by the committee when it first came to the floor and it was a typographical error. This is a technical amendment to change one word.

Floor amendment adopted.

Ordered to third reading.

Senator Barnes (Rule #42).

HB 1331-FN, an act relative to clarifying certain provisions under the workers' compensation law. Vote: 7-0. Ought to pass with amendment. Senator Danaïs for the committee.

5786L

Amendment to HB 1331-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to clarifying certain provisions under the workers' compensation law, and relative to fees for inspection certificates for elevators.

Amend the bill by replacing section 1 with the following:

1 Reference Change. Amend RSA 281-A:38 to read as follows:

281-A:38 Medical Examinations.

I. Any employee entitled to receive weekly payments under this chapter shall, if requested by the employer or ordered by the commissioner, submit himself or herself for examination by a duly qualified [medical practitioner or surgeon provided] ***health care provider, in accordance with professional standards as established by the commissioner,*** and paid by the employer at a time and place reasonably convenient for the employee. The employee shall have the right to have a [physician or surgeon] ***health care provider*** designated and paid by himself or herself present at such examination. This right, however, shall not be construed to deny to the employer's [physician or surgeon] ***health care provider*** the right to visit the injured employee at all reasonable times and under all reasonable conditions, so long as the employee claims compensation under this chapter.

II. Any health care provider conducting independent medical examinations under this chapter shall be certified by the appropriate specialty board [in such provider's area of specialty] ***as recognized by the American Board of Medical Specialties or obtain the approval of the commissioner for those specialties not recognized by such board. The health care provider shall maintain a current practice in that area of specialty.*** The independent medical examination shall take place within a 50-mile radius of the residence of the injured employee, unless, within the discretion of the commissioner, examination outside the 50-mile radius is necessary to obtain the services of a provider who specializes in the [particular injury suffered by the employee] ***evaluation and treatment specific to the nature and extent of the employee's injury.*** The injured employee shall not be required to submit to more than 2 independent medical examinations per year, unless within the discretion of the commissioner, more than 2 examinations are necessary.

Amend the bill by replacing section 5 with the following:

5 Qualifications of Appointees. Amend RSA 281-A:42-a, I to read as follows:

I. There is established a compensation appeals board. The board shall consist of a pool of 33 members, of which 11 members shall represent labor, 11 members shall represent employers or workers' compensation insurers and 11 members shall be attorneys who shall be neutral. Members of the board shall be appointed by the governor and council from a list of nominees submitted by the commissioner. The commissioner shall submit at least 2 nominees for each vacancy to be filled. ***Any person appointed by the governor and council who is not qualified or who ceases to be qualified in the capacity in which such person is serving on the appeals board shall be replaced by the governor and council.*** Terms of board members shall be 4 years, except the initial appointments shall be staggered so that no more than 1/3 of the mem-

bers' terms shall expire in the same year. Members of the board shall have at least 5 years' experience in the area of workers' compensation. Appeals from a decision of the commissioner or the commissioner's representative shall be heard de novo by a 3-member panel, composed of an attorney who shall serve as chair, one member representing labor and one member representing employers or workers' compensation insurers. At least 2 like votes shall be necessary for a decision by the panel. The board shall hear appeals, in accordance with RSA 281-A:43, I(b), from the decisions of the commissioner made pursuant to RSA 281-A:43. No person who is an interested party or an employee of an interested party shall participate as a member of the panel. The board shall conduct its proceedings in such a manner as to ensure a fair and impartial hearing.

6 Reference Changed From Committee to Council. Amend RSA 281-A:62, I and the introductory paragraph of II to read as follows:

I. There is hereby established an advisory council on workers' compensation. The advisory council shall consist of 9 members: the commissioner or a designee; the insurance commissioner or a designee; one member of the house of representatives, appointed by the speaker of the house; one member of the senate, appointed by the president of the senate; and 5 persons appointed by the governor and council, one representing the interests of management, who shall not have interests in the insurance field, one representing the interests of labor, one representing insurance interests of commercial workers' compensation carriers, one representing self-funded employers and one representing health care providers. The legislative members of the advisory council and the 5 members appointed by the governor and council shall be familiar with the workers' compensation laws of New Hampshire. Any person appointed by the governor and council who is not qualified or who ceases to be qualified in the capacity in which such person is serving on the advisory [committee] **council** shall be replaced by the governor and council. The advisory council shall discuss problems related to the administration of this chapter and shall discuss policy goals. The advisory council shall also ratify managed care programs established under RSA 281-A:23-a. The term of office of each member appointed by the governor and council shall be 3 years and until a successor is appointed and qualified. Vacancies shall be filled in the same manner and for the unexpired terms. Each member of the advisory council shall be reimbursed for necessary travel and other necessary expenses.

II. The council shall meet [on a monthly basis] **as necessary** and shall annually review the performance of the workers' compensation system and issue a report of its findings and conclusions on or before January 1 of each year to the governor, the labor commissioner, the commissioner of insurance, the speaker of the house of representatives, the president of the senate, and appropriate committee chairs of both houses as to the status of the workers' compensation system. In performing its responsibilities, the council may:

7 Enforcement Added. Amend the section heading of RSA 281-A:64 to read as follows:

281-A:64 Safety Provisions; Administrative Penalty **and Enforcement**.

8 New Paragraph; Enforcement. Amend RSA 281-A:64 by inserting after paragraph IX the following new paragraph:

X. Whenever the commissioner concludes on the basis of an inspection that conditions or practices exist in any place of employment which could reasonably be expected to cause death or serious physical harm,

the commissioner may direct that work in the area of endangerment cease until the danger is abated. No employee shall suffer loss of wages, salary, seniority, fringe benefit, or other benefit as a result of the commissioner's order.

9 Fees. Amend RSA 157-B:5, I to read as follows:

I. Subsequent to the inspection of an elevator, an inspector shall file with the commissioner an inspection report on a form prescribed by the commissioner indicating whether or not the elevator is certifiable and shall provide a copy of the inspection report to the owner or the owner's designee. When an elevator passes inspection, the commissioner shall furnish an inspection certificate to its owner or the owner's designee on a form prescribed by the commissioner. A fee of [~~\$45~~] **\$25** shall be charged for each certificate. If the fee is not paid within 30 days of the date on which the certificate is issued, the certificate shall be void.

10 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill clarifies which providers may perform independent medical examination under the workers' compensation law. The bill makes certain technical corrections by adding references to other provisions of the law.

The bill also changes the fee for inspection certificates for elevators.

SENATOR DANAIS: This bill clarifies that health care providers who examine people for worker' compensation must be qualified in the area with professional standards established by the commissioner. They also need to be certified either under the American Board of Medical Specialities or by the Commissioner for those specialties not recognized by the board. Several amendments were offered for this bill which the committee formed into one amendment. The first part allowed the commissioner to approve those specialists not recognized by the board. The second allowed the Governor and Council to remove those members of the Compensation Appeals Board who are no longer qualified. The third would make a technical change to the language concerning the Advisory Council. The amendment changes "committee" to "council." The fourth adds the word "enforcement" in the title safety provisions administrative penalty and adds a new paragraph which would allow the labor commissioner to close a work site because of unsafe conditions. The fifth would reduce the fee for an elevator inspection certificate from \$45 to \$25. The department has always charged \$25 but a recent audit found that the statute required a fee of \$45. The committee recommends this bill as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1364, an act relative to the annual independent audit of health insurers. Insurance Committee. Vote: 7-0. Ought to pass with amendment. Senator J. King for the committee.

5784L

Amendment to HB 1364

Amend the title of the bill by replacing it with the following:

AN ACT

repealing the law requiring certain annual audits of
accident and health insurers.

Amend the bill by replacing all after the enacting clause with the following:

1 Repeal. RSA 415-G, relative to annual audit of accident and health insurers, is repealed.

2 Effective Date. This act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill repeals the law requiring certain annual audits of accident and health insurers.

SENATOR J. KING: This bill allows for certified public accountants to sign the auditors insurers required submitted under RSA 415-G. The committee learned from the testimony that RSA 415-G duplicates the efforts of the Insurance Department in regard to collecting this type of information. Also 415-G as written, is very ambiguous, so much so that the department hasn't been able to develop rules to deal with the statute. The committee amended the bill to remove "repeal" 415-G from the statute. The committee recommends this bill as ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 1431, an act requiring individual health insurance policies to cover nonprescription enteral formulas. Insurance Committee. Vote: 7-0. Ought to pass with amendment. Senator Danais for the committee.

5655L

Amendment to HB 1431

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Individual Policies; Accident or Health Insurance. Amend RSA 415 by inserting after section 6-b the following new section:
415:6-c Coverage for Nonprescription Enteral Formulas.

I. Each insurer that issues or renews any individual policy of accident or health insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of such insurance who are residents of this state, coverage for the provision of nonprescription enteral formulas for the treatment of impaired absorption of nutrients caused by disorders affecting the absorptive surface, functional length, or motility of the gastrointestinal tract. Such coverage shall be provided when the prescribing physician has issued a written order stating that the enteral formula is needed to sustain life, is medically necessary, and is the least restrictive and most cost effective means for meeting the needs of the patient.

II. Each insurer that issues or renews any individual policy of accident or health insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of such insurance who are residents of this state, coverage for the provision of nonprescription enteral formulas and food products required for persons with inherited diseases of amino acids and organic acids. Such coverage shall be provided when the prescribing physician has issued a written order stating that the enteral formula or food product is medically necessary and is the least restrictive and most cost effective means for meeting the needs of the patient. Coverage for inherited diseases of amino acids and organic acids shall, *in addition to the enteral formula*, include food products modified to be low protein in an amount not to exceed \$1,800 annually for any insured individual.

III. The benefits included in this section shall not be subject to any greater deductible than any other benefits provided by the insurer. The coinsurance required by the enrolled participant shall not exceed the amount allowed under the contract for the reasonable and customary charge for the service provided.

2 Individual Policies; Accident or Health Insurance. Amend RSA 415:18-e, II to read as follows:

II. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses, shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for the provision of nonprescription enteral formulas and food products required for persons with inherited diseases of amino acids and organic acids. Such coverage shall be provided when the prescribing physician has issued a written order stating that the enteral formula or food product is medically necessary and is the least restrictive and most cost effective means for meeting the needs of the patient. Coverage for inherited diseases of amino acids and organic acids shall, ***in addition to the enteral formula***, include food products modified to be low protein in an amount not to exceed \$1,800 annually for any insured individual.

3 Individual Policies; Hospital Service Corporations. Amend RSA 419:5-f, I and II to read as follows:

I. Every hospital service corporation and every other similar corporation licensed under the laws of another state ***that issues or renews any policy of individual or group blanket accident or health insurance providing benefits for medical or hospital expenses***, shall provide to each ***individual or*** group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for the provision of nonprescription enteral formulas for the treatment of impaired absorption of nutrients caused by disorders affecting the absorptive surface, functional length, or motility of the gastrointestinal tract. Such coverage shall be provided when the prescribing physician has issued a written order stating that the enteral formula is needed to sustain life, is medically necessary, and is the least restrictive and most cost effective means for meeting the needs of the patient.

II. Every hospital service corporation and every other similar corporation licensed under the laws of another state ***that issues or renews any policy of individual or group blanket accident or health insurance providing benefits for medical or hospital expenses***, shall provide to each ***individual or*** group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for the provision of nonprescription enteral formulas and food products required for persons with inherited diseases of amino acids and organic acids. Such coverage shall be provided when the prescribing physician has issued a written order stating that the enteral formula or food product is medically necessary and is the least restrictive and most cost effective means for meeting the needs of the patient. Coverage for inherited diseases of amino acids [or] ***and*** organic acids shall, ***in addition to the enteral formula***, include food products modified to be low protein in an amount not to exceed \$1,800 annually for any insured individual.

4 Individual Policies; Medical Service Corporations. Amend RSA 420:5-g, I and II to read as follows:

I. Every medical service corporation and every other similar corporation licensed under the laws of another state ***that issues or renews any policy of individual or group blanket accident or health insurance providing benefits for medical or hospital expenses***, shall provide to each ***individual or*** group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for the provision of nonprescription enteral formulas for the treatment of impaired absorption of nutrients caused by disorders affecting the absorptive surface, functional length, or motility of the gastrointestinal tract. Such coverage shall be provided when the prescribing physician has issued a written order stating that the enteral formula is needed to sustain life, is medically necessary, and is the least restrictive and most cost effective means for meeting the needs of the patient.

II. Every medical service corporation and every other corporation licensed under the laws of another state ***that issues or renews any policy of individual or group blanket accident or health insurance providing benefits for medical or hospital expenses***, shall provide to each ***individual or*** group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for the provision of nonprescription enteral formulas and food products required for persons with inherited diseases of amino acids and organic acids. Such coverage shall be provided when the prescribing physician has issued a written order stating that the enteral formula or food product is medically necessary and is the least restrictive and most cost effective means for meeting the needs of the patient. Coverage for inherited diseases of amino acids [or] ***and*** organic acids shall, ***in addition to the enteral formula***, include food products modified to be low protein in an amount not to exceed \$1,800 annually for any insured individual.

5 Individual Policies; Nonprofit Health Service Corporations. Amend RSA 420-A:7-i, I and II to read as follows:

I. Every nonprofit health service corporation and every other similar corporation licensed under the laws of another state ***that issues or renews any policy of individual or group blanket accident or health insurance providing benefits for medical or hospital expenses***, shall provide to each ***individual or*** group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for the provision of nonprescription enteral formulas for the treatment of impaired absorption of nutrients caused by disorders affecting the absorptive surface, functional length, or motility of the gastrointestinal tract. Such coverage shall be provided when the prescribing physician has issued a written order stating that the enteral formula is needed to sustain life, is medically necessary, and is the least restrictive and most cost effective means for meeting the needs of the patient.

II. Every nonprofit health service corporation and every other similar corporation licensed under the laws of another state ***that issues or renews any policy of individual or group blanket accident or health insurance providing benefits for medical or hospital expenses***, shall provide to each ***individual or*** group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for the provision of nonprescription enteral formulas and food products required for persons with inherited diseases of amino acids and organic acids. Such coverage shall be pro-

vided when the prescribing physician has issued a written order stating that the enteral formula or food product is medically necessary and is the least restrictive and most cost effective means for meeting the needs of the patient. Coverage for inherited diseases of amino acids [or] **and organic acids shall, in addition to the enteral formula**, include food products modified to be low protein in an amount not to exceed \$1,800 annually for any insured individual.

6 Individual Policies; Health Maintenance Organizations. Amend RSA 420-B:8-ff, I and II to read as follows:

I. Every health maintenance organization and every other similar corporation licensed under the laws of another state **that issues or renews any policy of individual or group blanket health insurance providing benefits for medical or hospital expenses**, shall provide to each **individual or group**, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state, coverage for the provision of nonprescription enteral formulas for the treatment of impaired absorption of nutrients caused by disorders affecting the absorptive surface, functional length, or motility of the gastrointestinal tract. Such coverage shall be provided when the prescribing physician has issued a written order stating that the enteral formula is needed to sustain life, is medically necessary, and is the least restrictive and most cost effective means for meeting the needs of the patient.

II. Every health maintenance organization and every other similar corporation licensed under the laws of another state **that issues or renews any policy of individual or group blanket health insurance providing benefits for medical or hospital expenses**, shall provide to each **individual or group**, or to the portion of each group comprised of certificate holders of such insurance who are resident of this state, coverage for the provision of nonprescription enteral formulas and food products required for persons with inherited diseases of amino acids and organic acids. Such coverage shall be provided when the prescribing physician has issued a written order stating that the enteral formula or food product is medically necessary and is the least restrictive and most cost effective means for meeting the needs of the patient. Coverage for inherited diseases of amino acids and organic acids shall, **in addition to the enteral formula**, include food products modified to be low protein in an amount not to exceed \$1,800 annually for any insured individual.

7 Effective Date. This act shall take effect 60 days after its passage.

SENATOR DANAIS: This bill expands upon a bill that we passed last year. It includes food products as an enteral formulas and requires insurance companies to cover up to \$1,800 in cost yearly. These food products are for people who cannot digest regular food. They need special products such as low protein foods. The Senate amended the bill so that both enteral products and coverage for inherited diseases of amino acids and organic acids and low protein foods both will be covered up to \$1,800. The committee recommends this bill as ought to pass as amended. This bill also extends coverage for enteral formulas and food products in individual policies.

Amendment adopted.

Ordered to third reading.

HB 1509, an act making certain retired physicians immune from civil liability for volunteer health education services. Insurance Committee. Vote: 7-0. Ought to pass. Senator Russman for the committee.

SENATOR RUSSMAN: This bill will enable physicians who have retired to teach health education to the public as long as it is not for diagnosis of treatment. I think that is the important part of this bill, it will give them some civil immunity and I know that there is going to be a question raised as to whether or not this is a Jack Kevorkian bill, but the committee did not see it as such. It was voted 7 to 0 in favor of the bill, so we would urge passage of the bill. Thank you.

SENATOR WHEELER: I rise in strong opposition to this bill. Again, when I read this bill the first time, it put some questions in my mind, so I sent for a legal opinion on this bill, and I would like to read you part of the opinion. "Doctors enjoy a great prestige in our society because of the wonderful accomplishments of the medical profession as a whole. Those physicians who are worthy of that prestige should have no concern about civil liability when teaching other skills or knowledge. There is no need to grant immunity to someone who does nothing wrong; therefore, it is not the good doctor who benefits from HB 509 immunity. Plenty of harm can be accomplished by this type of doctor who would benefit from this immunity. This is true even if education were limited to the traditional teacher/student relationship. This bill would relieve such doctors from civil actions like defamation, interference with a relationship, negligence supervision, misrepresentation, intentional infliction of emotional distress and invasion of privacy. This is only a sampling. This begs some questions, could retired doctors defame former colleagues while educating? Yes. Could they undermine a parent's relationship with a child? Yes. Could they allow harm to come to a student placed under their supervision? Yes. Could they lie? Yes. Could they emotionally scare a student with cruel words or by some other means? Yes. Could they look through a student's confidential records and tell their class about the contents? Yes. A teacher stands in a position of authority over students of any age. This authority can be abused, and it can be abused by someone exercising good faith. Furthermore, I believe that this bill would indemnify Jack Kevorkian for doing what he does if he wanted to come to New Hampshire. What Jack Kevorkian does and what he teaches is not treatment and it is not diagnosis, it is death." I would urge that we find this bill inexpedient to legislate and I will call for a roll call.

SENATOR COHEN: Senator Wheeler, you mentioned in the beginning, that you had a legal opinion on this. I would just like to inquire as to the source of that legal opinion?

SENATOR WHEELER: James Bradley.

SENATOR COHEN: Who is that? Where is he from?

SENATOR WHEELER: From the National Right to Life Committee in Washington.

SENATOR COHEN: Thank you. I am glad that I asked that.

SENATOR DANAIS: As Chairman of the Senate Insurance Committee, I feel that it is necessary to stand and to speak on this bill. I am going to ask that you support HB 1509 and it is not that I do not agree with Senator Wheeler, when Senator Wheeler brought his amendment in, we felt that it was so controversial that it needed a public hearing and we did not want to make that amendment. So it is not that we disagree with his position, it is not that we disagree with his comments, the committee felt, unanimously by the way, that it needed further study and further hearing. So I ask you to support the bill in its present form. Thank you.

SENATOR WHEELER: If this indeed exempts doctor Kevorkian, how would you study about not exempting him? Were you suggesting to fix the problem later, after we pass the bill that exempts him?

SENATOR DANAIS: Yes. We felt that it was so controversial that we did not have the authorities in the rooms to answer such technical questions, so we felt that instead of adding the amendment to the bill, and maybe later realizing that it was not substantial enough or it was a mistake, we felt that you should come back next year with legislation and we will have a public hearing on the entire issue and weigh the pros and cons at that time. That is the only reason.

SENATOR WHEELER: Thank you, Senator.

SENATOR DANAIS: You're welcome.

Question is on ought to pass.

A roll call was requested by Senator Wheeler.

Seconded by Senator Colantuono.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Rubens, Rodeschin, Roberge, Blaisdell, Stawasz, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, Danais, Shaheen, Delahunty, Keough, Cohen.

The following Senators voted No: Lovejoy, Wheeler, Colantuono.

Yeas: 20 - Nays: 3

Adopted.

Ordered to third reading.

HB 1551, an act establishing a committee to study the functions and duties of the New Hampshire retirement system actuary. Insurance Committee. Vote: 7-0. Inexpedient to legislate. Senator Danais for the committee.

SENATOR DANAIS: This bill would have established a study committee to look into the functions of the retirement system actuary. The committee feels that this bill is unnecessary. The actuary is repeatedly audited and no substantial problems have been found. New Hampshire is lucky to have one of the finest retirement system funds. The committee recommends this bill as inexpedient to legislate, unanimously.

Committee report of inexpedient to legislate is adopted.

HB 1613, an act prohibiting and eliminating exclusivity contracts between health care insurers and health care providers. Insurance Committee. Vote: 4-3. Ought to pass with amendment. Senator Danais for the committee.

5803L

Amendment to HB 1613

Amend the bill by replacing all after section 1 with the following:

2 New Chapter; Prohibition of Exclusive Arrangements with Managed Care Insurers. Amend RSA by inserting after chapter 420-H the following new chapter:

CHAPTER 420-I

PROHIBITION OF EXCLUSIVE ARRANGEMENTS WITH MANAGED CARE INSURES

420-I:1 Definitions. In this chapter:

I. An "affiliate" of a specific person means any person directly or indirectly controlling, controlled by or under common control with such specific person.

II. "Exclusive arrangement" means any agreement, contract, combination or conspiracy, including, without limitation, acquisition, purchase, affiliation or consulting agreements with medical practitioners or group practices and contracts of employment, between a managed care insurer and any person or persons which has the purposes or effect of:

(a) Committing any person providing physician services to accept and treat as patients the subscribers to or participants in a managed care plan to the exclusion of persons who have coverage from any or all other managed care insurers;

(b) Providing reimbursement on sliding scales, capitation rates, payment schedules or other payment arrangements as a financial incentive for persons providing physician services to restrict treatment of persons who have coverage from some or all other managed care insurers; or

(c) Providing reimbursement on sliding scales, capitation rates, payment schedules or other payment arrangements which contain a financial disincentive for failing to restrict treatment of persons who have coverage through any or all other managed care insurers.

III. "Managed care" means any arrangement for the provision of physician services which is characterized by some measure of risk-sharing through capitation or other shared-risk compensation formula, and which are characterized by the establishment and maintenance of a provider network available to subscribers or participants, and which provides incentives for subscribers or participants to use that network for covered services, and which ordinarily limit coverage or the extent of such coverage to physician services provided by that network. "Managed care" shall include any managed care products or services or similar products including but not limited to those governed by RSA 415, RSA 419, RSA 420, RSA 420-A, RSA 420-B and RSA 420-C.

IV. "Managed care insurer" means a person offering or underwriting managed care and any affiliate thereof.

V. "Managed care plan" means any medical insurance plan offering or underwriting managed care.

VI. "Person" includes natural persons, trusts, corporations, limited liability companies, partnerships, limited partnerships, proprietorships, incorporated or unincorporated associations, and any other legal entity, and any and all of their affiliates.

420-I:2 Prohibition of Exclusive Arrangements.

I. No managed care insurer may enter into any new exclusive arrangement or renew any exclusive arrangement with any person on or after the effective date of this act.

II. No managed care insurer shall maintain exclusive arrangements or engage in any act or practice that would result in exclusive arrangements with any person, except in accordance with paragraph III of this section, on or after June 30, 1997.

III. The provisions of paragraph II of this section shall not apply to physicians employed by a managed care insurer until June 30, 1999.

420-I:3 Penalties. In addition to those actions authorized under RSA 420-B:13, the commissioner may impose a penalty on any managed care insurer of not more than \$2,500 for each day such managed care insurer shall be a party to a contract, arrangement, conspiracy, act or practice declared unlawful under RSA 420-I:2.

420-I:4 Reports to Insurance Commissioner. On or before March 1 and September 1 of each year, each managed care insurer shall file a report in form and containing such information as the insurance commissioner

prescribes. Such report shall include the name of the managed care insurer, its affiliates, a description of each exclusive arrangement to which it is a party and, as applicable, the date on which exclusive arrangement has been or will be terminated.

420-I:5 Effect on Current Contracts. No person who is party to an exclusive arrangement on the effective date of this chapter shall renew or extend any such exclusive arrangement after the effective date of this act. No provision of any contract or agreement establishing an exclusive arrangement shall be effective after the earliest date on which any party to the arrangement may terminate the exclusive nature of the arrangement. All exclusive arrangements shall be unlawful on and after the date set out at RSA 420-I:2, II. Any exclusive arrangement entered into, extended or maintained in violation of this chapter shall be void and unenforceable.

420-I:6 Limitation on Termination of Patient Relations. No exclusive arrangement between a managed care insurer and any person shall require a primary care physician to terminate any existing patient relationship with an individual who is covered by another managed care insurer. The physician shall continue to offer to provide services to existing patients for at least 5 years from the commencement date of this exclusive relationship or the effective date of the change of coverage, whichever is later. During such period, the physician will be reimbursed by the managed care insurer covering the patient at a rate which is not more than the highest rate paid by the insurer for similar services in the same service area.

420-I:7 Provisions Severable. If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid for any reason, such invalidity shall not affect any other provision or application of this chapter which may be effected without the invalid provision or application.

3 Effective Date. This act shall take effect upon its passage.

SENATOR DANAIS: HB 1613 prohibits and eliminates exclusivity contracts between the health care insurers and health care providers. HB 1613 is a result of a study committee which I was on last year. Basically the amendment varies from the House version in that it extends the period of time given to health care providers to abide by the restrictions. Basically, if you read on page 40 of the House Calendar, under 420-I:2, we have three areas that we added to further illustrate the exclusivity. "I. No managed care insurer may enter into any new exclusive arrangement," upon passage of this bill. "II. No managed care insurer shall maintain exclusive arrangements after June 30, 1997." The difference between this and the House version is extended for a year. Number three, which is a new provision, basically gives owners or employees of a health care provider until June 30, 1999, to dissolve their exclusive relationships. That was added to give the health care providers an opportunity for them to recoup an investment that they have made in their employees. There has been a lot of discussion in the committee regarding HB 1613 and one of the things that is not in the amendment that was discussed, was the concern of a certain area in the state of New Hampshire that even with this bill, will still be difficult for other health care providers to establish a network in. That is the area of Dover, NH. More specifically, the health care provider that has a pretty good audience there is Healthsource. We discussed the possibility of having that health care provider open up their employee docks to other HMOs, but upon advice from the attorney general's office, that was unconstitutional, we

could not put that into law that you have to do certain differences to one area of the state and not to other areas of the state, so we could not put that into the law. But I do want to read into the record a letter from Healthsource that they will voluntarily abide by that. "Dear Senator Danais, I am writing this letter on behalf of Healthsource New Hampshire, Inc. as a regard to the situation in Dover, NH and the pediatric physician practice known as Dover Pediatrics. This letter shall serve as confirmation that Healthsource New Hampshire, Inc. will upon passage and enactment into law of Senate Bill version HB 1613 amended by the Senate Insurance Committee on 4/17/96 no longer maintain an exclusive arrangement with Dover Pediatrics. The exclusive arrangement shall be removed no longer than 90 days following the enactment of HB 1613. Please feel free to contact me with any questions. Sincerely, Peter Wells." That was a major concern of the committee, and I do want to add that to the record. Thank you, Mr. President.

SENATOR SHAHEEN: Senator Danais, I certainly appreciate Healthsource's willingness to provide a letter to the Senate relative to their intentions, but I guess that I do have some concern that the letter is not coming from their CEO, and I just wondered if you can reassure me that I can accept that this is, in fact, the intent of everyone within, not only Healthsource New Hampshire, Inc., but within the national office as well?

SENATOR DANAIS: Senator Shaheen, I requested this letter at approximately 6:30 last night and I received it the first thing this morning, so I don't know if the company has had the opportunity to see the CEO, but I have it from the lobbyist that represents Healthsource that they will do it. So I don't see why it would not be represented in that way. I don't see any problems, but I will ask and see if I can get a clarification if necessary.

SENATOR SHAHEEN: You will note in your calendar that this amendment came out of the committee on a 4 to 3 vote. I was one of the three people who opposed the amendment. I appreciate the progress that we have made on this issue, not only through the study committee and through the process as it has gone through the House and in the Senate, and in the discussions in the Insurance Committee over the last several days. There seems to be general agreement on the part of all of the participants. Commissioner Bartlett who testified talking about the economic and business implications of exclusivity. Kathy Sgambati from Health and Human Services talked about the potential impact on the state of the Medicaid population if we continue to have exclusive contracts, what the increased cost to the state is going to be as the result of that. She talked about the impact on health care and the ability of people to access health care and to be able to afford in the state. I even appreciate the acknowledgment on the part of both Matthew Thornton and Healthsource that exclusivity has, in some cases, been detrimental to the greatest affordable and accessible health care for people in the state. But I can't support the amendment that is before us for one very important reason, it still deals with employees, those doctors' practices that are owned by a particular HMO. In fact, we are only talking about one HMO in the state that owns those doctor practices and that is Healthsource. As Senator Danais has pointed out, this is a particular concern for me as a representative of the city of Dover where the pediatric practice has been purchased in Dover and people have been denied the ability to continue to see their pediatrician because of the exclusive arrangement and

the ownership that Healthsource has for Dover. But I think that it is a problem not just to Dover, but it is a problem to a number of other health care markets in the state, Concord, for example, the western part of the state, it creates similar kinds of problems. What that means in terms of being able to bring competition into the state, because what we are really talking about is trying to level the playing field so that other HMOs can come in and try to compete with the existing HMOs here. Unless they have access to the major population markets for health care in this state, they can't come in and effectively compete. What we do when we leave that clause in the amendment, we effectively deny the ability of those other HMOs to come in and to compete in the rest of the state. I would also like to just read, very briefly, from a letter that the committee received yesterday from Everett Page who is the chief operating officer for Matthew Thornton. He addresses this issue specifically in the letter. In his last paragraph he says, "Any amendments which seek to exempt insurer owned practices from a prohibition on exclusive contracts, are inconsistent with the intent to provide the public access to health care. Insurer owned practices must fall under this legislation." I think folks, that if we don't address this issue, we haven't addressed the problem, and it is going to come back to haunt us next year. I intend to vote against this amendment. I would urge my fellow senators to consider it carefully and let us try to come up with a new amendment that we think could address this particular issue.

Senator Gordon in the Chair.

SENATOR KEOUGH: Senator Shaheen, I know that you are aware that pediatric patients in Exeter had a lot of concern about what is going on in the industry, particularly with exclusive contracts, my questions relates, and I apologize for just seeing this for the first time today, 420-I 6, limitation on termination of patient relations. Where it says, "No exclusive arrangement between a managed care insurer and any person shall require a primary care physician to terminate any existing patient relationship." That would seem to me, it may not address issues of competition, but it would seem to me, to address what was a problem in that case of Exeter where you had people who became employees of Healthsource who then could not see former patients who were covered by other plans. Does this address that situation immediately? Does this only pertain to future contracts or does it address existing contracts?

SENATOR SHAHEEN: My understanding is, that it would address . . . that that section that you just referenced, would address existing contracts upon passage of the legislation.

SENATOR KEOUGH: Thank you.

SENATOR SHAHEEN: However, let me just clarify that. I think that it does not, however, apply to the Dover situation because of the employee exclusion that is provided earlier in the amendment.

SENATOR F. KING: I was one of the four that voted in favor of this amendment. HB 1613 has been around since August 9, it was a week ago tomorrow that the Senate committee first saw the bill. On Friday, we had a public hearing that lasted nearly all day, and it was well attended by many, many individuals and representatives of groups of the parties that are involved in this issue. We have had several executive work sessions that really were mini hearings, TAPE CHANGE have this bill voted on today. At those work sessions, I was concerned that a lot of the people who were there on Friday were not there to hear the arguments and the

discussions. I don't know if we are on the fifth or sixth major rewrite of this very, very important piece of legislation, and I have a problem with the process, the process under which we are now going to pass this bill, perhaps. I believe that the bill that we have in front of us, is a good bill, but what I understood the process would be, that in its present form, it would go back to the House and it probably would require a Committee of Conference because it is different from the House Bill. I believe that would buy some time for this very important issue to be further reviewed by the public and the interested parties. I feel very inadequate as a member of the committee. I don't think that it has had sufficient discussion. There was no way to prolong the agony, we tried to do that, but simply, today is the day. I would ask that we pass this as it is amended, knowing that it is going to have a chance to have further review. There really is only one issue left, and that is the issue of the doctors that are employees. Through a very entrepreneurial process, a company went into a market, it happened to be the healthcare market, they did some very innovative things, in full view of everyone. Everyone else could have done that, had they chosen; they chose not to. It has resulted in a problem and now the problem has to be fixed. But there is something that we have to bear in mind, I think, that when a business decision is made in full view of the public and nothing unethical or illegal is done and investments are made, there has to be an opportunity for those investments to be recovered. I think that we have to recognize that. I think that this amendment does recognize that. I would ask that the Senate pass this bill in its present form and provide an opportunity which I think will take place for further review to make sure that we don't do something in this area of health care which is very important to everyone in the state, that we will be back here next year trying to do it over again. Thank you.

Recess.

Senator Delahunty in the Chair.

SENATOR J. KING: Senator Danaïs, I was one of the other three that didn't vote and I voted against the bill, mainly because of one reason, the time that we had to get back to whatever we were trying to do. Reading the bill here, I thought that we had agreed, or you had agreed on, three years and it says five years on the bill here?

SENATOR DANAÏS: Senator King, we agreed on three years for the employees which is in section III of 420, up top. That is June 30, 1999. The section VI, actually you want five years; the longer you want, the better.

SENATOR J. KING: Thank you very much.

SENATOR RUSSMAN: I have an amendment which I intend to offer after we vote on this committee amendment which seeks to put it more closely to the bill itself as it was originally presented. I was one of the sponsors on the original legislation, and was on the study committee which studied this. I think that perhaps my sense of it is, that what it does is, it gives the largest dominant HMO certainly a market advantage over all of the other HMOs that are either in the state or seek to come into the state by grandfathering these positions. I think further, by strategically purchasing and owning speciality primary care physicians in key areas of the state, it further creates statewide market barriers, so it is not going to help to do with what we really know that the public wants to do, our constituents, in terms of protecting their rights. The other thing, it is really unclear as to what we are grandfathering

here. There was testimony, I understand, that apparently said that 18 doctors were involved, and then yesterday we were told that they really meant 18 practices, resulting in 40 doctors. Although we haven't seen the names or the locations or anything like that about where those doctors are, so we simply don't know that information. I think that this particular idea of exclusivity has been kicking around now for about three or four years, and certainly those people who went forward, they took a risk, they took a gamble. Nowhere is it written that every time that you take a risk or that you take a gamble, that you are going to make money, large sums of money, on that risk. I think, further, it can be differentiated from stranded costs in the retail wheeling business, as far as the electricity rates, which some people have likened it to, is that those costs have been out there for many, many years, long before retail wheeling kind of came along, and this is totally different in that all of the players knew what was coming down the road and what they suspected was coming down the road, but they hoped to either forestall or stop in its tracks, and unfortunately or fortunately, whichever way that you want to look at it, it is here today. The consuming public demands that these exclusivity contracts be prohibited. There is no question about that. The overwhelming public support is out there, and certainly it is the right thing to do in terms of allowing our constituents access to the various physicians that they want to see. So I certainly hope that you would vote this amendment down so that we can offer an amendment which will put it back more towards the original bill which was offered from the House.

SENATOR FRASER: Mr. President, I hadn't planned on speaking, but I am on the Insurance Committee and I am one of the four that voted in favor of the amendment. The thing here, Mr. President, would be that we get rid of exclusivity totally. There is a problem only with the employed physicians, in that there has been a major investment by Healthsource who is really the major player in this legislation. To me, it is a fairness issue. If tomorrow morning we eliminated exclusivity totally, I would be a happier camper. By the same token, I think that because of the imagination of Healthsource, they have brought into their domain, approximately 40 physicians, they have invested, as I understand it, a huge amount of money in creating this network of employed physicians. I am not sure that the dates are right, three years to have them be eliminated, but something should be done because it is my sense, that suddenly we are trying to take or micromanage a company who has invested all of this money. So as far as I am concerned, maybe three years is too long, I don't know. I have a problem with the time frames, but I really believe that in fairness to this particular HMO, who by the way, I am not a big fan of this particular HMO, but it is a fairness issue with me, and I think that they should have a right to recover some of the money that they have invested, Mr. President.

SENATOR JOHNSON: Senator Fraser, just so I may get this straight in my mind, perhaps you can answer this question. Weren't the other providers given the same opportunity and they could have entered this type of networking as well as Healthsource?

SENATOR FRASER: Yes, they could, Senator Johnson.

SENATOR RUSSMAN: Senator Fraser, what about an organization like Matthew Thornton that happens to have a clinic here in Concord that has 10 or 20 physicians where they have a kind of semi exclusive arrangement that they have set up, which will be gone after this bill passes and they have expended an extraordinarily large amount of money in invest-

ment in terms of that. That investment is going to be lost. What do you have to say in terms of the fairness of the bill concerning somebody like that?

SENATOR FRASER: Senator Russman, first of all, as you know as well as I do, that Matthew Thornton is about to engage in some sort of an agreement with two other HMOs. So they probably for all sense and purposes, would be out of the exclusive business anyway, but that is why I have a problem with the time frame, the three years. That troubles me. I am not sure that it should be that long, because the way that the bill is structured on that effective date, Matthew Thornton will have divested itself from all exclusive contracts, whereas there is an additional, I believe, that it would add up to a one-and-a-half years for Healthsource to be able to divest themselves of these employee contracts. But to answer your question, I don't think that from what we were told at the hearing, the amendment as it is now structured, does not really impact Matthew Thornton.

SENATOR RUSSMAN: What about the notion about where we are giving Healthsource 40 doctors that they can have? What about giving 40 to all of the others that want to come in?

SENATOR FRASER: That is fine. I don't care about that. All that I am saying is that some day, we have got to get rid of exclusive contracts.

SENATOR RUSSMAN: But wouldn't that then be no exclusivity if we allowed everyone to have the 40 doctors?

SENATOR FRASER: Sure, if you want to do that way. I agree with you, Senator Russman. The point is that I think that there is a fairness issue with me, that we can't expect to require an HMO, whatever kind of estrangement cost that there might be, we just can't require them to be stripped of all of the money that they have invested in a program without giving them an opportunity to recover some of those costs.

SENATOR SHAHEEN: Senator Fraser, I, like you, appreciate the investment that not only Healthsource, but Matthew Thornton and Blue Cross have made in the state and in approving health care for everyone. But I know that you, like I did, voted against the bill that came in on jet skis that would have prohibited larger jet skis to be available on lakes. It seems to me that this a similar kind of issue, that in fact, what has gone on with jet skis is that there was the manufacture and sale of those and then suddenly the state talked about changing the rules to affect certain businesses relative to that issue. But I didn't hear anybody say that the state ought to reimburse them or give them a grandfathered kind of situation because of the investment that those businesses had made. So I guess that while I appreciate the fact that business does make an investment and that is a benefit to the public, that we aren't in the position of guaranteeing to businesses what their rate of return is going to be or whether the market is going to stay the same for the future. I think unlike the utilities, where stranded cost is an issue because they were regulated, that we haven't had that kind of regulation that is required the HMO's in the state to make investments as we had required the utilities to make investments.

SENATOR FRASER: Senator, I guess that my first response having to do with the analogy to jet skis, that bill had to do with limited use of them, it didn't say that they had to sell them.

SENATOR SHAHEEN: I understand.

SENATOR FRASER: If Senator Russman's proposed amendment is adopted, we are going to immediately require Healthsource to divest themselves of all of these employee contracts. So I think that there is a difference, as much as you don't like the idea, I think that it is very much similar to stranded cost and what we have been trying to do in that area of allowing the utilities to recover at least some of their investment.

SENATOR SHAHEEN: If I could just respond, because, Senator Fraser, you said that we would immediately require an end to those exclusive contracts, in fact, in the amendment, unlike the original bill, which did require an immediate end to exclusive arrangements upon passage, this bill gives the HMOs until June 30, 1997, to phase out those contracts. Isn't that correct?

SENATOR FRASER: I think that is correct.

SENATOR SHAHEEN: Thank you.

SENATOR F. KING: Senator Shaheen, this refers to your comment about what you perceive to be a difference between the electric issue with stranded costs and an issue here with stranded cost. It was not my understanding that the state of New Hampshire required Public Service to build Seabrook. It is my understanding that was a business decision that the company made along with the other utilities to build that as a business venture. Yet now, my recollection of the process that we have been through, and I think that you would agree, we are saying that they have to have a period of time to recover the stranded cost, and would you explain to me how this business decision of a different industry that made an investment, should not also be allowed to recover their stranded cost over some period of time? Explain to me again why that is different, I don't understand.

SENATOR SHAHEEN: Well I think that the utilities have argued, and I don't agree with the utility argument either, frankly, I don't think that we ought to be providing for stranded cost recovery for those kinds of business decisions. But their argument is that we had the Public Utilities Commission to regulate the utilities in this state, and that the PUC okayed those decisions about building Seabrook and other investments and facilities, and because of that regulation, the requirement that they provide power for everybody who might demand it and in order to do that, they had to generate that power and make investments to generate that power, based on that, they should be allowed to be reimbursed for those stranded cost. I think the difference here is, that there was no insurance department that said to Healthsource or that even okayed for Healthsource, you need to go out and buy those doctor practices so that you can serve more people in the state. I think that is the difference, Senator King.

SENATOR F. KING: Thank you.

SENATOR RUBENS: This is just a point, that I walk on dangerous grounds citing the Senate's prior voting record, remembering my history from yesterday, but this Senate on HB 1392 did grant two-and-a-half years between today and the day of implementation of competition, acknowledging in essence that there needed to be a phase-down period of time and then perhaps longer if the interim charge is higher than what we ultimately determined it to be. Secondly, on the jet skis, even on the jet skis, we gave owners of the larger machines, this summertime to operate them on all of the lakes that they could operate them on prior. So,

There is a consistency in the amendment proposed by the Insurance Committee and what the Senate has done recently this year in terms of phasing things in when there are changes.

Senator Blaisdell moved the question.

Adopted.

Amendment adopted.

Senator Russman offered a floor amendment.

5809L

Floor Amendment to HB 1613

Amend RSA 420-I:2 as inserted by section 2 of the bill by replacing it with the following:

420-I:2 Prohibition of Exclusive Arrangements.

I. No managed care insurer may enter into any new exclusive arrangement or renew any exclusive arrangement with any person on or after the effective date of this chapter.

II. No managed care insurer shall maintain exclusive arrangements or engage in any act or practice that would result in exclusive arrangements with any person on or after June 30, 1997.

SENATOR RUSSMAN: As I previously said, this amendment essentially drops out section III and puts the bill back to more of the original way that it was when it came over from the House and we would urge your support of that. I think that the debate has probably already been had in terms of everything that could be said about it, but if anybody has any additional questions, I would be happy to answer them.

SENATOR F. KING: Senator Russman, it is my recollection that the representative from the attorney general's office who participated in the drafting of these amendments, expressed a concern that there might be a legal question involved in this process and am I right in assuming that legal question might be relative to the inability for investments to be recovered?

SENATOR RUSSMAN: I think that it is going to go beyond that, in all honesty. I think that it is going to be more comprehensive than that single issue. That was my understanding.

SENATOR F. KING: So you think that there will be a legal challenge?

SENATOR RUSSMAN: I think that there is going to be a legal battle either way, frankly, Senator, one side or the other. That is my opinion on it. I don't think that what we do with this bill will resolve the issue of whether or not there will be litigation involved in exclusivity.

SENATOR ROBERGE: Senator Russman, if we pass your amendment, does that keep the bill from going to Conference?

SENATOR RUSSMAN: It is the House version, Senator.

SENATOR SHAHEEN: Senator Russman, TAPE INAUDIBLE the fact point out that when this would become effective for people?

SENATOR RUSSMAN: Well the effective date was upon passage of this bill if that is what you are referring too. Is that what you are referring too or are you talking about the provision for 1997

SENATOR SHAHEEN: Right.

SENATOR RUSSMAN: It would be June 30, 1997, so there would be a period of time for it to phase in or for people to deal with it for more than a year.

SENATOR SHAHEEN: So in fact, they would have over a year to recover some of those investments?

SENATOR RUSSMAN: Absolutely.

SENATOR SHAHEEN: Would you believe, that it is the consumer on their premiums who is going to wind up paying for these costs anyway?

SENATOR RUSSMAN: I believe that and I think that we, in this argument, I think that we are losing sight of the fact that those are the very people we are here to protect.

SENATOR F. KING: The reason that I would like to ask my question is because I thought that there was a question and an answer and I just want to make sure what Senator Roberge's question was and the answer was?

SENATOR ROBERGE: I asked Senator Russman that if we passed this floor amendment, if it would prevent the bill from going to a Committee of Conference?

SENATOR F. KING: I thought that he said no. It doesn't prevent it, but your amendment and the bill that we will be voting on, ultimately, will be very, very similar to HB 1613, is that not true?

SENATOR RUSSMAN: It would be more similar, yes.

SENATOR F. KING: It would very similar, is that not true?

SENATOR RUSSMAN: Yes. I haven't gone through to see the actual change . . .

SENATOR F. KING: So there would probably be no need for a Committee of Conference, is that not true?

SENATOR RUSSMAN: I wouldn't think that there would be, but whether or not the House will agree with that, I don't know.

SENATOR F. KING: Thank you.

Question is on the floor amendment.

A roll call was requested by Senator Wheeler.

Seconded by Senator Pignatelli.

The following Senators voted Yes: Gordon, Stawasz, Pignatelli, Colantuono, Larsen, J. King, Russman, Shaheen, Cohen.

The following Senators voted No: F. King, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Blaisdell, Wheeler, Podles, Barnes, Danais, Delahunty, Keough.

Yeas: 9 - Nays: 15

Floor amendment fails.

Ordered to third reading.

Senator Rubens in favor of ordering to Third Reading on HB 1613.

HB 1547, an act relative to discovery in criminal cases. Judiciary Committee. Vote: 6-0. Interim study. Senator Cohen for the committee.

SENATOR COHEN: Although the purpose of the bill was to improve the exchange of information between parties in a case, there was a real lack of agreement on this. There was concern that the procedure for discovering criminal cases would be altered so that this may result in actually hindering criminal prosecutions. The bill does not require defense inves-

tigators to disclose statements made by one of the prosecution's witnesses. This rule could have the effect of allowing defense lawyers to ambush prosecutors and undermine the whole concept behind open discovery as an aid to discovering the truth. The bill definitely requires a lot more work. I urge you to join me in voting to send this bill to interim study.

Motion of interim study fails.

Senator Gordon moved ought to pass.

Adopted.

Senator Gordon offered a floor amendment.

5810L

Floor Amendment to HB 1547

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect January 1, 1998.

SENATOR GORDON: This bill was heard by the Judiciary Committee and the committee acted on it yesterday. In fact, I believe that it was the last bill that we acted on. What the bill does, is it sets up some guidelines in regard to the defendant to release certain information to the prosecution, the prosecution to release certain information to the defendant. Now it was sent over by the House, but when we heard it in committee, there was a substantial disagreement with the attorney general's office as to whether or not these were advisable. There was substantial testimony in favor, but the attorney general's office had some problems with it. So they tried to work these things out, and they were working with the attorney general's office the last few days to work them out and they didn't, and because we couldn't reach an agreement, we decided that the bill was still meritorious that we would send it to interim study. We have been contacted today, to tell us that, in fact, that they did reach an agreement in regard to the bill, with the attorney general's office. The House has indicated to us, that they would like to take this bill into a Committee of Conference, given the late date and the circumstances, deal with the issues, if there are any remaining issues in the Committee of Conference. So what the amendment does, is to just change the effective date on the bill for the purpose of creating a Committee of Conference. The House has agreed not to accept the bill as passed by the Senate, so that we could resolve any differences if there are any.

Floor amendment adopted.

Ordered to third reading.

HB 1549, an act relative to the admissibility of a prior sexual assault into evidence in certain prosecutions. Judiciary Committee. Vote: 6-0. Ought to pass with amendment. Senator Pignatelli for the committee.

5798L

Amendment to HB 1549

Amend the bill by replacing section 3 with the following:

3 Applicability. This act shall govern all cases the trial of which commences on or after July 1, 1996.

SENATOR PIGNATELLI: HB 1549 will permit the admissibility of sexual assaults committed by a defendant in certain cases. A court may exclude such evidence if it finds the prejudicial effect of the evidence substantially outweighs the probative value. The amendment clarifies the timing of the applicability of the bill. This bill should help prevent

horrendous court decisions like the one handed down by the state Supreme Court last March in the Antonio Marti case. As you may recall, the court in that case disallowed evidence of virtually hundreds of prior sexual assaults committed by the defendant against the same victim while the victim was a minor. The Judiciary Committee is concerned, however, that this bill may violate part II, article 73-A of the New Hampshire Constitution. That article which was adopted in 1978 gives the Supreme Court the exclusive power to make rules governing the administration of all courts in the state, and the practice and procedure to be followed in all such courts. Rather than pass HB 1549 now, and then wait for the inevitable appeal to take place challenging the constitutionality of the bill, the Judiciary Committee feels that it would be more prudent and ultimately more expedient to request a court ruling now. To accomplish this, I will move the adoption of the committee amendment and then move to lay this bill on the table. Senator Podles will then introduce a Senate Resolution calling on the Supreme Court to rule on the constitutionality of this bill.

Amendment adopted.

Senator Pignatelli moved to have **HB 1549**, an act relative to the admissibility of a prior sexual assault into evidence in certain prosecutions, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1549, an act relative to the admissibility of a prior sexual assault into evidence in certain prosecutions.

SUSPENSION OF THE RULES

Senator Barnes moved that Senate Rule 17A and 17B be suspended to allow the introduction of a Senate Resolution 3 after the deadline.

Adopted by the necessary 2/3 vote.

SR 3, requesting an opinion of the justices concerning the constitutionality of HB 1549. (Podles, Dist. 16)

INTRODUCTION OF SENATE BILLS

Senator Podles offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Resolution number 3 shall be by this resolution read a first and second time by the therein listed title, laid on the table for printing and referred to the therein designated committee.

First and Second Reading

SR 3, requesting an opinion of the justices concerning the constitutionality of HB 1549.

SENATOR PODLES: Mr. President, as Senator Pignatelli so eloquently stated, I urge your support of SR 3 to HB 1549 so that we can get a ruling from the Supreme Court as to the constitutionality of HB 1549.

Adopted.

HB 1606, an act relative to child support collection. Judiciary Committee. Vote: 5-0. Ought to pass. Senator Cohen for the committee.

SENATOR COHEN: HB 1606 will make it easier for the Division of Health and Human Services to collect delinquent child support payments

by requiring the delinquent parent to post a bond or to give some other type of security where deemed appropriate by a court or by the division. They will also suspend enforcement of child support orders during such time as a responsible parent receives benefits under social security or AFDC or other public assistance programs.

Adopted.

Ordered to third reading.

HB 1333-FN-L, an act relative to public assistance for households containing persons with disabilities. Public Institutions, Health and Human Services Committee. Vote: 4-0. Ought to pass with amendment. Senator Larsen for the committee.

5646L

Amendment to HB 1333-FN-LOCAL

Amend paragraph II of section 3 of the bill by replacing it with the following:

II. RSA 167:82, VII(a)(5) relative to medical needs deduction as disregards and deductions for determining net income.

SENATOR LARSEN: HB 1333 clarifies the eligibility requirements for public assistance for households containing persons with disabilities. Prior to the creation of and passage of HB 32 last session, state policy said that social security income for the disabled was not to be counted when such person was living with a family receiving AFDC. During the discussion on HB 32 we warned that this was going to be a problem, but the problem was not resolved. In HB 1333 we have resolved the problem by restoring the old state policy so that social security disability income will not be counted. The elimination in HB 32 attributed no savings, therefore there is no fiscal impact to this bill's reinstatement. The committee amendment also corrects a problem in the citation. The committee recommends this bill as ought to pass as amended.

SENATOR KEOUGH: Senator Larsen, there were two things that were done in HB 32. One dealt with the income side, it dealt with supplemental income through disability. The other was on the expense side. In HB 32 what it did that hadn't been done before, is that it allowed in the calculation of available means, a deduction for actual expenses incurred. Was that addressed in the committee amendment? In other words, it seems to me that you have to deal with both sides. If you want to go back . . . if the committee believes that the proper thing to do is to go back to the old way of doing it, then it should not both allow the income and continue to allow the deductions of the expenses.

SENATOR LARSEN: Because there is no fiscal impact associated with the bill, I assume that the balance is there and that it does not, in fact, cost the state more money to recognize the income coming in from disability. We did not have a full discussion on that, but the department felt that this bill was acceptable and necessary.

SENATOR KEOUGH: Thank you.

Amendment adopted.

Ordered to third reading.

HB 1368, an act requiring permits for dentists who administer general anesthesia, deep sedation, and conscious sedation, and giving the board of dental examiners related rulemaking authority regarding the permits and fees. Public Institutions, Health and Human Services Committee. Vote: 5-0. Ought to pass. Senator Lovejoy for the committee.

SENATOR LOVEJOY: Mr. President, HB 1368 is a straightforward piece of legislation that requires dentists to obtain a permit from the Board of Dental Examiners for administering general anesthesia, deep sedation, and conscious sedation, which is actually the current practice now. Currently, Mr. President, when someone comes in, when an expert comes in from another part of the country or the world to give clinics to dentists on new techniques and anesthesiology, we have no rule in place that allows them to do that. Currently they are doing it, but they need a rule to make it proper and that is what this bill does. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 1562-FN-L, an act relative to preventing downshifting of welfare costs to cities and towns. Public Institutions, Health and Human Services Committee. Vote: 5-0. Ought to pass with amendment. Senator Wheeler for the committee.

5318L

Amendment to HB 1562-FN-LOCAL

Amend RSA 165:1-e, IV as inserted by section 3 of the bill by replacing it with the following:

IV. Whenever necessary to prevent an immediate threat to the health and safety of children in the household, the welfare administrator shall waive that portion, if any, of the qualified state assistance reduction as is necessary.

SENATOR WHEELER: HB 1562 helps local governments by providing a mechanism to protect cities and towns from allowing benefits to those who have been sanctioned by the state under the new welfare plan outline in HB 32 of last session. This bill is an attempt by the Department of Health and Human Services to cooperate with local governments. This in turn will better serve the citizens of New Hampshire. It is not an attempt to do away with local welfare or to reduce the limitations of the responsibility to assist those in need. It creates a partnership to benefit all those who are involved. The committee amendment simply states that whenever necessary to prevent an immediate threat to the health and safety of children in the household, the welfare administrator shall waive that portion, if any, of the qualified state assistance reduction as necessary. We urge your support.

Amendment adopted.

Ordered to third reading.

HB 1564-FN, an act relative to records of adjudicatory hearings in cases involving child abuse or neglect, children in need of services, and delinquent children; de novo hearings in cases involving child abuse or neglect and children in need of services; and the review panel for dispositional orders on delinquency cases. Public Institutions, Health and Human Services Committee. Vote: 4-0. Ought to pass with amendment. Senator Wheeler for the committee.

5787L

Amendment to HB 1564-FN

Amend the title of the bill by replacing it with the following:

AN ACT
relative to the review panel for dispositional
orders on delinquency cases.

Amend the bill by replacing all after the enacting clause with the following:

1 Judicial Member Not in Agreement with Majority; District Court Order Stands. Amend RSA 169-G:1, I to read as follows:

I. A panel shall be established and shall be available to review dispositional orders of the district court. The panel shall consist of one judge, appointed by the administrative judge of the district court, and 2 lay persons, one appointed by the speaker of the house of representatives and the other appointed by the senate president. In addition, there shall be appointed one alternate judge sitting in a different district court, appointed by the administrative judge of the district court, and 2 lay persons who shall serve as alternates, one appointed by the speaker of the house and the other appointed by the senate president. No lay member of the review panel shall be a legislator or a person involved with the juvenile justice system either for pay or on a voluntary basis. The judge shall serve as panel chairperson. The term shall be for 3 years, and initial appointments to the review panel shall be as follows: one judge and one alternate judge for 3 years; one lay member and the alternate for 2 years; the other lay member and the other alternate for one year. The panel shall meet at such times and places as its business requires, as determined by the chairperson. The decision of 2 members, one of whom shall be a judge, is sufficient to determine any matter before the review panel. ***If the judicial member is not in agreement with the decisions of the other 2 members, the district court order shall remain in place.*** No judge may sit or act on a review of a dispositional order issued by such judge or another justice sitting in the same district court. If the review to be acted on by the panel is a review of the dispositional order issued by the judge serving on the review panel or another justice sitting in the same district court, or if it is inexpedient for a member to attend at the time for which a meeting is called, the panel chairperson shall notify one of the alternates to sit in place of the absent or disqualified member. The review panel may appoint a secretary-clerk, whose compensation shall be fixed by the review panel and paid by the state.

2 Effective Date. This act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill clarifies certain procedural provisions relative to the review panel for dispositional orders in juvenile cases.

SENATOR WHEELER: HB 1564 as amended simply clarifies the procedures for the dispositional review panel when members are not in agreement. In a situation where a judicial member is not in agreement with the decision of the other two members, the district court order shall remain in place; in other words, if the panel doesn't overrule the decision of the lower court, by the required majority, the order will stand. The committee urges your support.

Amendment adopted.

Ordered to third reading.

HB 1156, an act relative to aircraft landings. Transportation Committee. Vote: 5-0. Ought to pass with amendment. Senator Gordon for the committee.

5671L

Amendment to HB 1156

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Accessory Uses; Aircraft Landings. Amend RSA 674:16 by inserting after paragraph IV the following new paragraph:

V. In its exercise of the powers granted under this subdivision, the local legislative body of a city, town, or county in which there are located unincorporated towns or unorganized places may regulate and control accessory uses on private land. Unless specifically proscribed by local land use regulation, aircraft landings on private land by the owner of such land or by a person who resides on such land shall be considered a valid and permitted accessory use. Aircraft landings on private land by a person other than the owner of such land or a person who resides on such land shall not be considered a valid and permitted accessory use.

AMENDED ANALYSIS

This bill provides that aircraft landings on private land by the owner of such land or a person who resides on such land shall be considered a valid and permitted accessory use on private land, and shall not be unreasonably restricted by a land use control regulation.

This bill also specifies that aircraft landings on private land by a person other than the owner of such land or a person who resides on such land shall not be considered a valid and permitted accessory use.

SENATOR GORDON: HB 1156 prescribes that aircraft landings on private property shall be considered a valid and permitted accessory use for the owner of the property, unless specifically prohibited under local land use regulations. Existing statutes do not reference aircraft landing under accessory use, and as a result, zoning boards inconsistently apply the law for such usage. The Transportation Committee recommends HB 1156 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1285, an act prohibiting sobriety check points. Transportation Committee. Vote: 5-0. Ought to pass with amendment. Senator Cohen for the committee.

5783L

Amendment to HB 1285

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing sobriety check points in certain situations.

Amend the bill by replacing section 1 with the following:

1 New Section; Sobriety Checkpoints Prohibited. Amend RSA 265 by inserting after section 1 the following new section:

265:1-a Sobriety Checkpoints. Notwithstanding any provision of law to the contrary, no law enforcement officer or agency shall establish or conduct sobriety checkpoints for the purposes of enforcing the criminal laws of this state, unless such law enforcement officer or agency petitions the superior court and the court issues an order authorizing the sobriety checkpoint after determining that the sobriety checkpoint is warranted.

AMENDED ANALYSIS

This bill prohibits law enforcement officials from conducting or establishing sobriety checkpoints, unless the law enforcement officer petitions the superior and the court issues an order authorizing the sobriety checkpoint.

SENATOR COHEN: HB 1285 prohibits sobriety checkpoints, unless the state superior court determines that the checkpoint is warranted. Sobriety checkpoints can violate an individual's constitutional right against unwarranted search and seizure and certainly can be oppressive, because they are performed on large numbers of innocent people without probable cause. As a rule, police agencies of this state should and can be using less intrusive measures such as roving patrol, which is proven to be effective in getting drunk drivers off of the highways. The Transportation Committee unanimously recommends passage of HB 1285 as amended.

Amendment adopted.

Ordered to third reading.

HB 1341-FN-A-L, an act relative to a corridor study of Route 101. Transportation Committee. Vote: 5-0. Ought to pass with amendment. Senator Cohen for the committee.

5774L

Amendment to HB 1341-FN-A-LOCAL

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose. The purpose of this bill is to authorize the New Hampshire department of transportation to establish the purpose, study area, participants, process, scope, and time-frame of a study of the NH Route 101 corridor extending from Optical Avenue in Keene to the terminus of NH Route 101A in Milford, and to submit to the governor's advisory commission on intermodal transportation (GACIT) and the speaker of the house and the president of the senate a final report of the findings and recommendations based on the results of the study.

2 Study and Scope. The New Hampshire department of transportation shall study the area along the existing Route 101 corridor within the boundaries and with the participation of the following New Hampshire municipalities: Keene, Roxbury, Marlborough, Harrisville, Dublin, Jaffrey, Peterborough, Sharon, Temple, Wilton, and Milford and with the participation of the Southwest Regional Planning Commission.

3 Report. The commissioner of the department of transportation shall submit a report together with recommendations for legislation to the governor's advisory commission on intermodal transportation and to the speaker of the house, the president of the senate, the house clerk, the senate clerk, and the state library no later than November 1, 1999.

4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill authorizes the department of transportation to perform a corridor study of Route 101 from Keene to Route 101-A in Milford, New Hampshire.

SENATOR COHEN: HB 1341 authorizes the Department of Transportation to complete a corridor study of Route 101 from Keene to Route 101A in Milford. A corridor study is necessary to open up the dialogue

concerning the need to improve the east/west traffic flow along this section of Route 101. The increasing traffic growth along this corridor necessitates safety and capacity improvements. The Transportation Committee recommends HB 1341 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1477, an act relative to the penalties for a person driving while intoxicated or under the influence of drugs. Transportation Committee. Vote: 5-0. Ought to pass. Senator F. King for the committee.

SENATOR F. KING: HB 1477 places the impaired driver program solely under the Department of Health and Human Services, which brings a statute into compliance with changes made through HB 32 from last session. Currently this is a shared responsibility with the Department of Safety. HB 1477 also provides a clear sequence of penalties for DWI convictions. This removes the discretionary element for the judges, but makes it easier to assert penalties relative to the particular offense. The Transportation Committee recommends this bill as ought to pass as amended.

Adopted.

Ordered to third reading.

HB 1546, an act promoting boating safety awareness. Transportation Committee. Vote: 5-0. Ought to pass with amendment. Senator Gordon for the committee.

5777L

Amendment to HB 1546

Amend the title of the bill by replacing it with the following:

AN ACT

promoting boating safety awareness, limiting the use of the public boat launch at Wellington State park in the town of Bristol, and naming the new park and ride in Plaistow the "Michael C. Weston Memorial Park and Ride."

Amend the bill by replacing all after section 1 with the following:

2 New Section; Public Boat Launch; Wellington State Park; Access Limited. Amend RSA 233-A by inserting after section 5 the following new section:

233-A:5-a Public Boat Launch at Wellington State Park; Access Limited. Use of the public boat launch operated by the department at Newfound Lake, in the town of Bristol, shall be limited to those times during which the Wellington State park is open to the public.

3 Michael C. Weston Memorial Park and Ride. The new park and ride lot to be constructed on Westville Road in the town of Plaistow, New Hampshire shall be known as the "Michael C. Weston Memorial Park and Ride." The commissioner of the department of transportation shall ensure that an appropriate plaque or sign is placed at the new park and ride when construction is completed.

4 Effective Date. This act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill:

(1) Requires any person operating a vessel on the waters of this state to demonstrate the operator's knowledge of boating safety laws.

(2) Limits access to the public boat launch at Wellington State park in the town of Bristol.

(3) Names the new park and ride to be constructed in Plaistow the "Michael C. Weston Memorial Park and Ride."

SENATOR GORDON: HB 1546 requires the Department of Safety to include on its boat registration application, a short checklist of boating safety rules. The same checklist will be required on boat rental applications. This is one of the most effective and least expensive means of promoting boating safety. The first of the two committee amendments names the park and ride, currently under construction in Plaistow, the "Michael C. Weston Memorial Park and Ride." The second amendment has to do with Wellington State Park. It would make the hours of operation of the boat launch at Wellington State Park consistent with Wellington State Park itself. The Transportation Committee unanimously recommends HB 1546 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1594, an act relative to commercial driver licensing. Transportation Committee. Vote: 4-0. Ought to pass. Senator Russman for the committee.

SENATOR RUSSMAN: This bill will bring us into federal compliance with air requirements concerning truck safety. If we didn't pass it, you would lose significant federal funding. The committee urges ought to pass.

Adopted.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator Fraser moved that the rules of the Senate be so far suspended as to allow a committee report not previously advertised in the calendar.

Adopted by the necessary 2/3 vote.

HB 1429, establishing a study committee on interstate banking and branching. Banks Committee. Ought to pass.

SENATOR FRASER: Mr. President, HB 1429 was sent to us by the House Commerce Committee. What the bill offers is a statutory committee to study the implications of interstate branching and banking and having to do with anti-trusts problems and possible federal tax problems. The bill came out of the committee 5 to 2 as ought to pass and we would urge its adoption.

Adopted.

Ordered to third reading.

RECONSIDERATION

Senator Rubens having voted with the prevailing side, moved reconsideration on **HB 1113**, relative to the order of names on state primary election ballots, whereby we ordered it to third reading.

Adopted.

HB 1113, relative to the order of names on state primary election ballots.

Senator Rubens offered a floor amendment.

5755L

Floor Amendment to HB 1113

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the order of names on state primary election ballots
and to political advertising and relative to
a contingent nullification.

Amend the bill by replacing section 9 with the following:

9 Contingency; Certain Provisions of HB 1297 Not to Take Effect. If HB 1297 of the 1996 regular legislative session becomes law, sections 2 and 3 of HB 1297 shall not take effect.

10 Effective Date.

I. Section 9 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

Section 3 of this bill provides that, on state primary election ballots, the names of candidates for the office of state representative shall be arranged in the alphabetical order of their surnames.

Sections 6-8 of this bill:

I. Change the signature and identification requirements for political advertising.

II. Modify political advertising requirements including the removal of the requirement that persons or organizations operating a radio or television station or public address system shall broadcast political advertising only after announcing it as such.

Section 9 of this bill nullifies certain provisions of HB 1297 which relate to another provision of the bill which was removed by an amendment.

The remainder of this bill amends certain RSA provisions making them gender neutral and consistent with other sections amended by the bill in accordance with RSA 17-A:6 relative to gender neutral drafting.

SENATOR RUBENS: We served notice of reconsideration yesterday because there was a drafting failure and I am not certain as to the source to remove two defunct sections of the version of the bill that we passed. Those two defunct sections are removed, otherwise, the bill is unchanged.

SENATOR SHAHEEN: Senator Rubens, can you just explain what those provisions are which will not take effect?

SENATOR RUBENS: This is a bit complicated. What we intended to do in this bill . . . well we had another bill HB 1297 relative to citizenship affidavits, and the intent on that bill of the Public Affairs Committee was to remove all of the bill other than the citizenship affidavit portion of the bill. In a drafting error, two sections of HB 1297 were simply not deleted and we passed them, so we are amending HB 1113 as a vehicle to result in the elimination of sections two and three on HB 1297.

Recess.

Out of recess.

Floor amendment adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled Bills sent down from the Senate:

HB 1132, reinstating the corporate charters of Polar Graphics, Inc. and Capitol Alarm Systems, Inc and amending the charter of Saint-Gaudens Memorial.

HB 1139, relative to the powers of the town of Sunapee concerning governance of the Sunapee water and sewer system.

HB 1228-FN, requiring the executive director of the department of fish and game to provide copies of fish and game statutes, if available as a single publication from a commercial publisher, without charge only upon request of the members of the house wildlife and marine resources committee and the senate fish and game/recreation committee.

HB 1392, restructuring the electric utility industry in New Hampshire and establishing a legislative oversight committee.

HB 1400, relative to liquor licensing requirements for veterans' clubs and social clubs and relative to liquor licenses for off-site catering services.

HB 1472, establishing a committee to study ways to enhance the postsecondary education system so as to attract European businesses.

HB 1609, relative to police dogs and search and rescue dogs.

HCR 27, urging Congress to reauthorize certain aspects of the Safe Drinking Water Act.

HJR 22, urging the New Hampshire congressional delegation to review the significant economic impact of the implementation of the Silvio O. Conte National Fish and Wildlife Refuge.

5672d

Enrolled Bill Amendment to HB 1599-FN

Amend section 6 of the bill by replacing line 8 with the following:

and council, speaker of the house, senate president, house clerk, senate clerk, and state library by October 1, 1996.

Senator Currier moved adoption.

Adopted.

5687

Enrolled Bill Amendment to HB 1614-FN

Amend RSA 260:60 as inserted by section 1 of the bill by replacing line 10 with the following:

tolls so collected, [he] *the administrator* shall report the same to the state treasurer who

Senator Currier moved adoption.

Adopted.

5694

Enrolled Bill Amendment to HB 1604-FN

Amend the bill by deleting section 4 and renumbering the original sections 5-7 to read as 4-6, respectively.

Amend the bill by replacing section 6 with the following:

6 Effective Date. This act shall take effect January 1, 1997.

Senator Currier moved adoption.

Adopted.

5669

Enrolled Bill Amendment to HB 1119

Amend section 5 of the bill by replacing lines 5 and 6 with the following:

officer neglects to perform any of the duties imposed by this or RSA 39 [he] *such constable or police officer* shall forfeit

Senator Currier moved adoption.

Adopted.

5709

Enrolled Bill Amendment to SB 519

Amend the bill by replacing section 1 with the following:

1 Repeal. 1992, 163:5, 1, as amended by 1994, 50:1, relative to the repeal of the driver attitude training, is repealed.

Senator Currier moved adoption.

Adopted.

TAKEN OFF THE TABLE

Senator Shaheen moved to have **HB 1369**, an act adding new requirements for appeals processes and appeals board membership relating to nonprofit health service corporations and health maintenance organizations, taken off the table.

Adopted.

HB 1369, an act adding new requirements for appeals processes and appeals board membership relating to nonprofit health service corporations and health maintenance organizations.

Question is on the committee report of inexpedient to legislate.

SUBSTITUTE MOTION

Senator Shaheen moved to **substitute ought to pass for inexpedient to legislate.**

SENATOR SHAHEEN: I would like to offer a substitute motion of ought to pass on this bill. If you look at the bill, the bill makes two changes. It really only makes one change in the existing law. Currently health service corporations and HMOs are required to have an appeals process for complaints. What this bill does, is to require that at least one third of whatever that appeals board is, and the appeals board is set up in house by the HMO. All that this does is require that one-third of those board representatives not be employees of the insurer. Now there was no testimony in opposition to this bill. We heard from Matthew Thornton and Healthsource that they could live with the perimeters that are outlined in the bill. It is still not clear to me why the committee killed the bill. It was a 3 to 2 vote and I was one of the two people voting in favor of it. I did it frankly, because I think there is some perception out there that people who are subscribers to HMOs don't have the kind ability for redress when they feel that the HMO has not provided the kind of treatment that they were looking for or the kind of alternatives to treatment. It is important for us to try and to correct the perception that there is a basis there. I think that is what this bill is trying to address. It tries to require that the HMO in making that decision about an appeal for the treatment that has been prescribed,

have at least some people on that appeals board who would have a more objective opinion than employees of the HMO. I would urge this body to support the substitute motion.

SENATOR F. KING: Senator Shaheen, my only question about this is, it doesn't seem to address how the people who are not employees of the HMOs are going to be involved in the process. I guess it is just a process question that I have.

SENATOR SHAHEEN: Again, that is actually left up to the HMOs to set up those boards because this is, according to the process that is outlined in statute, that is an in-house complaint process. I think that what we heard at the hearing from both Healthsource and Matthew Thornton was that they would be able to go outside of their direct employees to get people to sit on those complaint boards. In fact, I think that it was Matthew Thornton who told us that they had actually come to the conclusion on their own, that they should not have employees as part of that board.

SENATOR F. KING: Okay. Thank you.

SENATOR DANAIS: I am the one who led the charge in the committee for inexpedient to legislate. The reason that I did it, is because I felt that this bill is just another example of the legislature trying to micro manage an industry. Senator Shaheen is correct, there was nobody opposed to this bill, but it is just another restriction on the way that we govern these businesses to do business. It is not a big . . . the system in this particular case is not broken. There is nothing wrong with the appeals process. Nobody came in and testified that they were wrong or that the appeals process was prejudicial or that the employees of the company were really doing a bad job. This puts on the companies or the HMOs a burden of getting non employee people, at no compensation, to come in and to work on an appeals board. The recommendation of the majority of the committee was that this was an unnecessary bill. It really does not serve a major purpose, and that is why we voted it inexpedient to legislate.

SENATOR RUSSMAN: I think, frankly, that the HMO should have come in and embraced this type of legislation. As we said, there was no opposition to it. But as you know, there are many, many times that we are hearing, and they are anecdotal stories, but they're people who have gone to get certain treatments or visits or what have you, with a specialist where the gate keeper has said no. This if anything, will give an opportunity to the HMOs to have a nice clean open process without any question, because those public members, perhaps, would be the first to go to the appropriate people and say, this is not working right and we are always voting to say no to the people that need particular care or things of that nature. So I think that this is a good opportunity. It is protecting our constituents and the consumers of these health services, and it certainly is not any kind of an undue burden whatsoever on the industry. As I said, I am sure that they would have been in to tell us about if they thought it were and that is not the case. Here is an opportunity for us to be ahead of the curve.

SENATOR SHAHEEN: Senator Russman, isn't it true that neither you nor Senator Blaisdell were able to be at the session where we execed this bill and that both of you are supporting it, and had you been there, the committee report would have been different?

SENATOR RUSSMAN: That is correct. I wasn't polled, I don't know why, but for whatever reason that I wasn't, I certainly would have voted to pass the bill.

SENATOR KEOUGH: Senator Shaheen, who would select the non employee members to be on the appeals board?

SENATOR SHAHEEN: Again, while according to statute, the HMOs are required to have this complaint system in place that is outlined here in the bill. That is already part of the statute. They are allowed to set that up in-house. So they would, in fact, select the non employees.

SENATOR KEOUGH: So the HMOs would select the non employee members?

SENATOR SHAHEEN: Right.

SENATOR KEOUGH: Is there any restriction on the HMOs' ability to replace or to get rid of non employee members?

SENATOR SHAHEEN: Not that I am aware of.

SENATOR FRASER: Senator Shaheen, during the course of the testimony, was there any testimony at all that indicated that there was a need for this legislation? Did any consumer, for instance, come in and say that they had been mistreated or that they felt that they didn't have a fair hearing because of the structure of the appeals process within an HMO?

SENATOR SHAHEEN: Senator Fraser, I don't recall that we had any consumers. Again, my recollection is that everyone that testified, testified in favor of the bill.

SENATOR FRASER: Thank you.

SENATOR COLANTUONO: Senator Danaïs, if these individuals, one-third of the appeals board, and the utilization review persons, are not employees of the insurer, presumably that they can't get paid, is that right?

SENATOR DANAIS: That is correct.

SENATOR COLANTUONO: And if they don't get paid, and they have no incentive to show up . . .

SENATOR DANAIS: Yes, I will clear that up.

Recess.

Out of recess.

SENATOR DANAIS: The reason for the slight confusion is that there was an amendment brought forward during the public hearing that would state that the members of this panel would not be paid and that amendment was defeated because it is difficult enough now to get non employees to attend or to be on this panel and some of the HMOs felt that they had to pay them.

SENATOR COLANTUONO: Well that is the point. If they are paid, aren't they employees?

SENATOR DANAIS: Well that is the point. I mean, non employees, but you are paying them and they become employees. There was a lot of controversy back and forth. As Senator Keough stated, that if it is a non employee, and it is on the board, and you don't like the decisions, you are going to replace him anyway. So if you don't abide by the board and you don't make the right decisions for them, they are going to replace you on the panel with somebody that is going to make the right decisions for them. So the whole thing is ridiculous.

SENATOR RUSSMAN: The whole thing isn't ridiculous. As a practical matter, the process has guidelines about how long people sit on the various boards, like their tenure of office and so on. It is like any of these other boards that have certain processes that you can't just arbitrarily say today "well you're off today and you're on tomorrow" and so on and so forth. This gives some standard and some at least non company appearance to protect our constituents, our consumers in the state of New Hampshire which we are here to do in terms of their health care and particularly in cases, and you have all read about them, where a woman has breast cancer and seeks some treatment and doesn't get it or that the gate keeper perhaps has some type of per capita contract and doesn't want to send them to the specialist and it turns out that they have something more complicated than it was. These types of things would give more opportunities to our constituents to have that appealed in a proper manner. We are only asking for someone who is disinterested in the process, to some degree, have the opportunity to sit on those boards, and to think that there was no opposition to it, and yet we have three sponsors on the bill. Even the HMOs said that they could live with the bill, I can't imagine that we are considering not voting for it.

SENATOR RUBENS: Senator Russman, because the HMO would have control over choice of those minimum one-third members, isn't this in essence, again, because they would have control over choice and selection of those members, isn't it in essence perhaps a fig leaf and a statement by the legislature that the consumer is being given more protection, when in essence, they may not be getting any more protection than is available presently?

SENATOR RUSSMAN: I believe that they are. This would open the door and make it more opportune for people to be able to come and see what is going on. It would certainly give people that are not on the payrolls to decide an issue about whether or not there should be . . . we just went through a huge debate on the Wetlands Board about public and agency people. We thought that it was important to bring public people into a process in terms of giving the constituency a fair hearing, and the appearance of a fair hearing in terms of what they are going to be getting. I think that this is no different than that. It gives the public a chance to be heard by other public people as well as people who have already turned them down in terms of HMOs, from their decision, that is why they are appealing, they have been refused.

Recess.

Senator Barnes in the Chair.

SENATOR RUBENS: But I don't see in here, Senator Russman, where the structure of the process is changed, i.e. with respect to the degree of openness or to the extent to which the public can witness the fair process hearing? Is there such a change in here?

SENATOR RUSSMAN: Yes. The mere fact that we are introducing public members into the process makes it more open because they are not employees of the HMO. It is clear.

SENATOR RUBENS: Are they closed meetings at present?

SENATOR RUSSMAN: I don't know whether they are or they are not. Senator Fraser is saying that they are not and that they are open meetings. But this certainly gives the opportunity for people in a decision making process to have their say.

SENATOR BLAISDELL: In all difference with the Senate Insurance Committee Chairmen, I didn't even think about voting on this bill because I didn't hear anybody that was against it, so I didn't have any particular idea, if I had known that there was going to be a problem, certainly I would have gone and voted. Senator Danais has always polled me on everything, but this one here, I just thought that there was no controversy on it, so I didn't bother.

SENATOR DANAIS: With respect to Senator Russman and Senator Blaisdell, the reason that neither one of them was polled, is because there was a dialogue going back and forth between the parties in the room and I felt that it was unfair for me or for anyone to poll these two gentlemen and not hear the dialogue, and that is the reason why you weren't polled. We agreed in the committee that that was why you weren't polled.

Senator Fraser moved the question.

Adopted.

Question is on the substitute motion of ought to pass.

Senator Shaheen requested a roll call.

Recess.

Senator Shaheen withdrew her request for a roll call.

Out of recess.

A roll call was requested by Senator Shaheen.

Seconded by Senator Pignatelli.

Recess.

Senator Delahunty in the Chair.

The following Senators voted Yes: F. King, Gordon, Rubens, Blaisdell, Stawasz, Pignatelli, Larsen, J. King, Russman, Shaheen, Cohen.

The following Senators voted No: Johnson, Fraser, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Colantuono, Podles, Barnes, Danais, Delahunty, Keough.

Yeas: 11 - Nays: 13

Substitute motion of ought to pass fails.

Question is on the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

TAKEN OFF THE TABLE

Senator Rubens moved to have **HB 420**, an act relative to habitability in manufactured housing parks, taken off the table.

Adopted.

HB 420, an act relative to habitability in manufactured housing parks.

Question is on the committee amendment.

Amendment adopted.

Senator Rubens offered a floor amendment.

5814L

Floor Amendment to HB 420

Amend the bill by replacing all after the enacting clause with the following:

1 Intent. The general court finds that, as a matter of public policy, owners and operators of manufactured housing parks have a responsibility to be sure that tenants have safe water and roads and sewer and electric services. It is the intent of the general court that any omission in this act to specifically regulate the provision of electric services shall not be construed to change the owner's or operator's responsibility to provide such services.

2 New Section; General Applicability. Amend RSA 205-A by inserting after section 13-b the following new section:

205-A:13-c General Applicability.

I. A manufactured housing park owner shall assure that the roads are passable and common areas within the manufactured housing park are safe and fit for the purpose of which they were reasonably intended.

II. Cooperative housing parks shall be subject to the provisions of RSA 205-A.

III. In the rental of any lot in a manufactured housing park there shall be an implied warranty of habitability whereby the park owner warrants, at the inception and throughout the tenancy, that, if provided by the owner:

(a) There is a functioning water supply system which, if the source is provided by the owner, shall provide safe drinking water in accordance with the applicable standards established by the department of environmental services in quantities to meet ordinary household needs of the tenant.

(b) There is a safely functioning sewage disposal system, which shall be in accordance with the applicable standards established by the department of environmental services, available to the tenant household.

IV. The housing standards set forth under RSA 48-A shall also apply to manufactured housing parks.

3 Effective Date. This act shall take effect 45 days after its passage.

SENATOR RUBENS: This amendment is the Public Affairs Committee unanimous recommendation except for a single change which appears in III (a) in the amendment, which is the addition of the words "if the source is provided by the owner" and those words are agreed to by parties representing both mobile home park owners and mobile park occupants.

Floor amendment adopted.

Ordered to third reading.

Senator Cohen moved to have **HB 1379**, an act to require financial filings by county and local party committees, taken off the table.

Recess.

Out of recess.

Question is on the motion of taking HB 1379 off of the table.

Motion failed.

TAKEN OFF THE TABLE

Senator Gordon moved to have **HB 1265**, an act relative to payment of utilities by tenants of manufactured housing parks, taken off the table.

Adopted.

HB 1265, an act relative to payment of utilities by tenants of manufactured housing parks.

Question is on the committee report of ought to pass.

SENATOR GORDON: I have nothing to add to the committee report other than we do have tens of thousands of people who do live in manufactured housing in this state and this bill is important to them.

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator J. King moved to have **HB 1167**, an act relative to voluntary limits on campaign expenditures, taken off the table.

Recess.

Out of recess.

Question is on the motion of taking HB 1167 off of the table.

Motion failed.

ANNOUNCEMENTS**RESOLUTION**

Senator Barnes moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

RESOLUTION

Senator Barnes moved that the Senate be in recess until Tuesday, April 30, 1996 at 10:00 a.m. for the sole purpose of receiving House messages and Enrolled Bill reports and Enrolled Bill amendments.

Adopted.

LATE SESSION**Third Reading and Final Session**

HB 420, an act relative to habitability in manufactured housing parks.

HB 547-FN-L, an act establishing a deferred compensation plan for volunteer firefighters.

HB 580-FN, an act allowing the formation of and regulating limited liability partnerships and providing for registration fees.

HB 606-L, an act excluding certain welfare recipients from the definition of public employee under the workers' compensation law.

HB 610-L, an act integrating changes in the municipal budget act into the laws relating to towns and school districts.

HB 1110-FN, an act establishing a study committee relative to electronic information in state government.

HB 1113, relative to the order of names on state primary election ballots.

HB 1122, an act modifying the term "compact area" relative to the use of firearms and fireworks.

HB 1156, an act relative to aircraft landings.

HB 1163-FN, an act requiring archery license applicants to complete a mandatory bow hunter education course.

HB 1164, an act making it illegal to train dogs to hunt bobcat.

HB 1207, an act relative to coinsurance payments for covered services.

HB 1220-FN-L, an act providing that the state shall apply for and utilize moneys from the Goals 2000 - Educate America Act.

HB 1222, an act establishing a council on applied technology and innovation.

HB 1265, an act relative to payment of utilities by tenants of manufactured housing parks.

HB 1285, an act prohibiting sobriety check points.

HB 1303, an act relative to the rulemaking authority of the commissioner of transportation.

HB 1331-FN, an act relative to clarifying certain provisions under the workers' compensation law.

HB 1333-FN-L, an act relative to public assistance for households containing persons with disabilities.

HB 1341-FN-A-L, an act relative to a corridor study of Route 101.

HB 1364, an act relative to the annual independent audit of health insurers.

HB 1368, an act requiring permits for dentists who administer general anesthesia, deep sedation, and conscious sedation, and giving the board of dental examiners related rulemaking authority regarding the permits and fees.

HB 1429, establishing a study committee on interstate banking and branching.

HB 1431, an act requiring individual health insurance policies to cover nonprescription enteral formulas.

HB 1446-FN, an act establishing the New Hampshire board of hearing care providers, requiring audiologists to be licensed, and establishing certain fees.

HB 1453-FN, an act relative to divisions and employees of the liquor commission.

HB 1477, an act relative to the penalties for a person driving while intoxicated or under the influence of drugs.

HB 1509, an act making certain retired physicians immune from civil liability for volunteer health education services.

HB 1513, an act relative to filings and records held by the secretary of state.

HB 1525, an act relative to damages in suits brought by administrators of an estate.

HB 1546, an act promoting boating safety awareness.

HB 1547, an act relative to discovery in criminal cases.

HB 1550, an act relative to a lobster management plan and relative to lobster and crab licenses.

HB 1562-FN-L, an act relative to preventing downshifting of welfare costs to cities and towns.

HB 1564-FN, an act relative to records of adjudicatory hearings in cases involving child abuse or neglect, children in need of services, and delinquent children; de novo hearings in cases involving child abuse or neglect and children in need of services; and the review panel for dispositional orders on delinquency cases.

HB 1594, an act relative to commercial driver licensing.

HB 1597, an act changing the wetlands board to the wetlands council.

HB 1606, an act relative to child support collection.

HB 1613, an act prohibiting and eliminating exclusivity contracts between health care insurers and health care providers.

In Recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 473-FN-A-L, establishing the distance learning commission.

HB 1314, reorganizing the department of environmental services.

HB 1455, relative to the permissible fireworks review committee.

HB 1530-FN, authorizing the executive director of the department of fish and game to regulate the taking of deer and moose and permitting the director to adopt rules relative to a registration agent's fees.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bills and Resolutions sent down from the Senate:

SB 523, relative to insurance holding companies.

SB 540-FN, modifying the definition of a qualified investment company.

SB 541-FN-A, exempting the healthy kids corporation from the insurance premium tax.

SB 550, allowing a certain town employee to buy back time in the New Hampshire retirement system.

SB 583, requiring the Coos county commissioners to be elected on a rotating basis.

SB 603-FN, relative to estate tax apportionments.

SB 617-L, enabling appointment of sewer commissioners and the establishment of municipal boards of public works commissioners.

SB 629, relative to testamentary additions to trusts.

SCR 20, demanding that the federal government cease enacting mandates that are beyond the scope of the 10th Amendment to the United States Constitution.

SCR 21, urging the President of the United States and Congress to establish an independent commission to advise Congress on campaign finance reform legislation.

SJR 20, establishing the New Hampshire Commission on the Smithsonian Festival of American Folklife featuring New Hampshire to be held on the National Mall in Washington, D.C., in 1999.

HOUSE MESSAGE

The House of Representatives has referred for Interim Study the following Bills sent down from the Senate:

SB 526, revising the commission on the status of the family.

SB 528, making certain changes in the law regarding trustees of estates.

SB 530, authorizing the court to suspend the motor vehicle driver's license of a person convicted of criminal mischief.

SB 535, relative to automobile insurance.

SB 576-L, permitting telecommunications public utilities to provide services at rates lower than those fixed by its schedules of general application to public and private schools grades kindergarten through 12.

SB 595, relative to licensed insurance agents under workers' compensation.

SB 614, authorizing licensing of alcohol and drug counselors.

SB 648-FN, relative to child support.

SB 663, relative to lead paint insurance coverage and lead paint risk reduction.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 73, relative to real estate brokers liens.

SB 175-FN-L, allowing the city of Manchester to issue state-guaranteed bonds for a civic center and relative to the financing of Manchester airport.

SB 507, relative to the New Hampshire real estate practice act.

SB 510, authorizing town moderators to call a secret ballot.

SB 514, relative to the definition of personal watercraft and authorizing certain residents to petition the commissioner of safety to allow the use of personal watercraft on previously restricted water bodies.

SB 516, relative to dwellings with lead paint.

SB 520, establishing a study committee on the issue of granting municipalities the option of assessing property taxes on April 1 and October 1 of each year.

SB 529, limiting railroad liability for passenger trains.

SB 534, requiring candidates to report when either receipts or expenditures exceed a certain amount.

SB 536-L, prohibiting public employees of educational institutions from utilizing students as couriers relative to any labor matter in dispute between the employer and the employee organization.

SB 568-FN, requiring the house and senate calendars to be made available on the largest nonprofit public computer network (Internet).

SB 575, relative to reporting requirements for candidates for local offices.

SB 581-L, relative to the Derry local exit on I-93.

SB 592-FN-L, establishing a committee to study the distribution of school building aid.

SB 593-FN-A, relative to New Hampshire Route 125.

SB 606, relative to certification qualifications for marital mediators and prohibiting board involvement in training of marital mediators.

SB 620-FN, postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 630-FN, relative to outdoor advertising devices and permit fees.

SB 637, requiring the commissioner of the department of environmental services to study and recommend statutory changes establishing a fabric care environmental response program.

SB 653-FN, establishing the parent and pupil rights law.

SB 662-FN, relative to real estate appraisers.

SB 665-FN, relative to liquor licenses for a sports/entertainment complex.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

HB 1161, relative to the information required on the state primary and state general election ballots, voter checklists of cities and towns, candidate and party nominations, nomination papers, and absentee ballots.

HB 1455, relative to the permissible fireworks review committee.

(**HB 1455**, relative to permissible fireworks.)

Senator Currier moved adoption.

Adopted.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, April 30, 1996 at 10:00 a.m.

Adopted.

LATE SESSION

Senator J. King moved that the business of the day being completed, the Senate now adjourn until Tuesday, April 30, 1996 at 10:00 a.m.

Adopted.

Adjournment.

April 30, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

In our culture, patience is not a virtue, rather it is quick results which we value. To be so shallow as to think that I can transform my parish or you can transfer the government of this state in a day or a session, betrays an astonishing and destructive self centeredness. Be patient.

William Wilberforce was perhaps the greatest British politician who ever served. He spent his whole, lifelong career in Parliament focused on one issue. Over all those years in office, whenever his issue came to a vote, he lost - every single time. It was after 53 years of trying, just before Wilberforce died, that Parliament passed the Emancipation Act abolishing slavery, all because of one man's patience. Whatever role in life you fulfill, be patient. It is a virtue.

Lord, may these good people, and those who surround them here, function today with such countercultural patience, that this honorable profession which they pursue on our behalf might change them and transform us in ways that can and should last beyond the next election.

Amen

Senator Danaïs led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following House and Senate Bills:

HB 1186, requiring the executive director of the department of fish and game to adopt rules regulating fishing tournaments, including rules regarding waivers of tournament fees.

HB 1499, making the board of nursing administratively attached to the department of health and human services and removing the oversight authority of the commissioner of health and human services.

SB 519, repealing the sunset provision of the driver attitude training program.

Senator Currier moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives has passed a Bill with the following title, in the passage of which it asks the concurrence of the Senate:

HB 1025-FN-L, relative to a 10-year transportation plan, relative to the Derry local exit on I-93, and extending the lapse dates for certain capital appropriations to the department of transportation.

SUSPENSION OF THE RULES

Senator Barnes moved that the Rules of the Senate be so far suspended as to allow the introduction and committee referral of a House Bill after the deadline.

HB 1025-FN-L, relative to a 10-year transportation plan, relative to the Derry local exit on I-93, and extending the lapse dates for certain capital appropriations to the department of transportation.

Adopted by the necessary 2/3 vote.

First and Second Reading.

HB 1025-FN-L, relative to a 10-year transportation plan, relative to the Derry local exit on I-93, and extending the lapse dates for certain capital appropriations to the department of transportation. Capital Budget Committee.

Senator Fraser is excused for the day.

COMMITTEE REPORTS

HB 1154, an act establishing kindergarten planning assistance and maintenance aid programs, and making an appropriation therefor. Education Committee. Vote: 6-0. Ought to pass. Senator Lovejoy for the committee.

SENATOR LOVEJOY: Mr. President, HB 1154 establishes kindergarten planning assistance and maintenance aid programs. The assistance program has the Department of Education help school districts in their planning for kindergarten. The maintenance program designates \$500 for each child in a district who attends public kindergarten. The bill as sent to the Senate from the House has only a \$1 appropriation. The Senate Education Committee as a Senate Policy Committee, feels that kindergarten is important for New Hampshire and the committee recommends this bill as ought to pass and hopes that it will go to the Finance Committee and the Finance Committee can find some funding mechanism for the program.

SENATOR LARSEN: You will notice that this bill came out with a 6 to 0 committee recommendation. That is because those of us working on kindergarten, and all of those here in this room, want to see kindergarten happen this year. What is missing in this bill is how do you pay for it? This bill sets up the right way to fund kindergarten. It gives a \$500 per pupil support for kindergarten students. We know that there are 2,400 five-year-olds in this state who cannot attend any public kindergarten who attend no programs at all. We need to address this, this session. We have all had these discussions, and we haven't had a serious discussion on how are we going to pay for kindergarten. I, personally, do not want to be on a bill that does not carry the funding to pay for kindergarten and instead leaves us in a posturing position of saying that we tried to but we could only find \$1. Let's work on this folks. Let's get this to happen this session. Let's find the money. We know that there is a way. Two weeks ago we saw a way to fund kindergarten through the cigarette tax, we know there are ways. Are we serious about this or not? We are sending this bill to Finance. I trust Finance to work seriously on this because this is an issue that we are alone in the nation, not funding kindergarten. It is wrong because the lowest income people, the lowest income children in this state are those least likely to get kindergarten. Let's address this, let's fix it and let's fix it now. Let's send this to Finance and when it comes back, I want to see some funding on that. I think that a lot of people here in this room would like to see some funding too. Thank you.

Adopted.

Referred to the Finance Committee (Rule #24).

HB 533-FN, an act relative to retirement benefits for the state treasurer. Insurance Committee. Vote: 7-0. Ought to Pass. Senator F. King for the Committee.

SENATOR F. KING: HB 533 allows the state treasurer to buy back time in the constitutional officers special retirement system. These constitutional officers are elected. The special retirement system is not part of the retirement system for the state employees. The officers pay instead into the general fund for the retirement fund. The committee recommends this bill as ought to pass.

Adopted.

Referred to the Finance Committee (Rule #24).

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 517-L, relative to a property tax exemption for real estate used as rental housing by certain nonprofit charitable organizations and relative to assessments against owners of property in central business districts.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 517-L, relative to a property tax exemption for real estate used as rental housing by certain nonprofit charitable organizations and relative to assessments against owners of property in central business districts.

Senator Colantuono moved to non concur and requests a Committee of Conference.

Adopted.

The President on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Colantuono, Danais, Barnes.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 566-FN, requiring transporters of hazardous material to maintain transportation liability insurance coverage.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 566-FN, requiring transporters of hazardous material to maintain transportation liability insurance coverage.

Senator Gordon moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Cohen, Gordon.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate:

HB 1323, establishing a committee to study the issue of the use, and disposal of sludge or septage, and requiring notification to certain persons before the application of sludge or septage.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Peter Showerman
	Charles Bridgewater
	Kevin Camm
	Derek Owen

SENATE ACCEDES TO HOUSE REQUEST

HB 1323, establishing a committee to study the issue of the use, and disposal of sludge or septage, and requiring notification to certain persons before the application of sludge or septage.

Senator Russman moved to accede to a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Cohen, Johnson.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate:

HB 1572-L, recodifying and revising the solid waste laws.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Don Philbrick
	Dan Burnham
	Perley Davis
	Irene Messier

SENATE ACCEDES TO HOUSE REQUEST

HB 1572-L, recodifying and revising the solid waste laws.

Senator Russman moved to accede to a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Pignatelli, F. King.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate:

HB 1582, authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Howard Dickinson
 William Williams
 Mike Whalley
 Sid Lovett

SENATE ACCEDES TO HOUSE REQUEST

HB 1582, authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures.

Senator Russman moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Pignatelli, Rodeschin.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate:

HB 1289-L, relative to restrictions on waters used as a public water supply.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Howard Dickinson
 Merle Schotanus
 Rudolf Adler
 Paula Bradley

SENATE ACCEDES TO HOUSE REQUEST

HB 1289-L, relative to restrictions on waters used as a public water supply.

Senator Russman moved to accede to a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Cohen, Johnson.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 577, establishing a committee to study the issue of implementing individual withdrawal selection for abortion coverage by an individual in a group policy, including premium implications and administrative costs.

**SENATE NON CONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 577, establishing a committee to study the issue of implementing individual withdrawal selection for abortion coverage by an individual in a group policy, including premium implications and administrative costs.

Senator Danais moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, J. King, Wheeler.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 560, relative to utilization review programs.

**SENATE NON CONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 560, relative to utilization review programs.

Senator Danais moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Blaisdell, Russman, Fraser.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 659, allowing self-employed persons or business owners who have paid into the unemployment compensation fund to collect benefits.

**SENATE NON CONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 659, allowing self-employed persons or business owners who have paid into the unemployment compensation fund to collect benefits.

Senator Danais moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Danais, F. King, Blaisdell.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 552, relative to life, accident, and health insurance, nonprofit health service corporations, and health maintenance organizations.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 552, relative to life, accident, and health insurance, nonprofit health service corporations, and health maintenance organizations.

Senator Danais moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 623, to provide an optional retirement program for employees of the department of regional community-technical colleges.

**SENATE NON CONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 623, to provide an optional retirement program for employees of the department of regional community-technical colleges.

Senator Danais moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Danais, Fraser, Blaisdell.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 590, establishing a committee to study the feasibility of requiring insurers to cover early intervention services.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 590, establishing a committee to study the feasibility of requiring insurers to cover early intervention services.

Senator Danais moved to concur.

Adopted.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 627, relative to insurance coverage for childbirth.

SENATE NON CONCURS WITH HOUSE AMENDMENT

SB 627, relative to insurance coverage for childbirth.

Senator Danais moved to non concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 625, relative to insurance fraud.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 625, relative to insurance fraud.

Senator Danais moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 551, establishing a committee to review state-funded health care insurance.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 551, establishing a committee to review state-funded health care insurance.

Senator Danais moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 532, relative to the creation and recordation of groundwater management zones.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 532, relative to the creation and recordation of groundwater management zones.

Senator Russman moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 600-FN, clarifying the authority of the division of air resources to issue facility-wide permits for sources not subject to Title V.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 600-FN, clarifying the authority of the division of air resources to issue facility-wide permits for sources not subject to Title V.

Senator Russman moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 601, revising the air toxic control act.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 601, revising the air toxic control act.

Senator Russman moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 640, relative to acquisitions and mergers involving national banks and relative to trust activities conducted in New Hampshire by out-of-state banks and conducted out-of-state by New Hampshire banks.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 640, relative to acquisitions and mergers involving national banks and relative to trust activities conducted in New Hampshire by out-of-state banks and conducted out-of-state by New Hampshire banks.

Senator Fraser moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 559-FN-L, declaring proposed public collective bargaining agreements to be public records subject to inspection.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 559-FN-L, declaring proposed public collective bargaining agreements to be public records subject to inspection.

Senator Rubens moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Barnes, Rubens, Blaisdell.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 594, prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency and relative to the polling place and to special meetings under the official ballot option.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 594, prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency and relative to the polling place and to special meetings under the official ballot option.

Senator Rubens moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Rubens, Blaisdell, Colantuono.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 632, requiring municipal water companies to provide notice and opportunity to certain tenants prior to termination of service.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 632, requiring municipal water companies to provide notice and opportunity to certain tenants prior to termination of service.

Senator Rubens moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1194, clarifying the definition of tenancy to exclude campgrounds and camping parks recreational vehicles used at motorsport racing facilities and exempting from certain aspects of the laws regulating campgrounds and camping parks.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Beverly Gage
Richard Krueger
Roland Belanger
Matt Newland

SENATE ACCEDES TO HOUSE REQUEST

HB 1194, clarifying the definition of tenancy to exclude campgrounds and camping parks recreational vehicles used at motorsport racing facilities and exempting from certain aspects of the laws regulating campgrounds and camping parks.

Senator Roberge moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Pignatelli, Roberge, Danais.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate:

HB 1288, relative to pesticide product registration and establishing a study committee of pesticide product registration policies.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Don Philbrick
Derek Owen
David Scanlan
Frank Torr

SENATE ACCEDES TO HOUSE REQUEST

HB 1288, relative to pesticide product registration and establishing a study committee of pesticide product registration policies.

Senator Russman moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: F. King, Johnson, Cohen

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate:

HB 1621, authorizing the executive director of the fish and game department to conduct wildlife population reductions.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Charles Felch
Harold Crossman
Henry Coulombe
Allen MacNeil

SENATE ACCEDES TO HOUSE REQUEST

HB 1621, authorizing the executive director of the fish and game department to conduct wildlife population reductions.

Senator Roberge moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Roberge, Rodeschin, Cohen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1631, relative to felonious use of body armor.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: William Knowles
Richard Dolan
Sharleene Hurst
Edward Scanlon

SENATE ACCEDES TO HOUSE REQUEST

HB 1631, relative to felonious use of body armor.

Senator Podles moved to accede to request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Wheeler, Pignatelli.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 90, relative to uniform adjudicative hearing procedures for state agencies.

SENATE NON CONCURS

SB 90, relative to uniform adjudicative hearing procedures for state agencies.

Senator Podles moved to non concur.

Adopted.

ANNOUNCEMENTS

Senator Lovejoy (Rule #44): Mr. President, four years ago I decided to run for the state Senate. I did that because some people came to me and asked me to run. I never dreamed that I would run for the state Senate or that I would have the opportunity to serve in this chamber. I didn't know much about it and I was honored to be asked. We ran a hard campaign and we won a seat. Then two years later, we came and I ran for reelection, and again, I was honored to have been selected by the voters to serve in this distinguished chamber. Mr. President, it has been my decision not to seek reelection and I know that you all know that because we have talked about and it has been in the press and all that sort of thing. I just want to take this time . . . it may be early, but I feel in my heart that I would like to say to the Senate, that I appreciate my association with you in this past four years. I want to tell you that each of you has expressed to me the unique intelligence, one that served the state well; and our individual compassion for our state and for the citizens that we serve and the respect. I talk about this respect, fellow senators, wherever I go, because I haven't experienced this sort of thing in government before, where we can disagree on issues, and we do, we can disagree on goals, and we do, and we can disagree on ways to get to a common purpose, and we do. But what always impresses me so, with this distinguished body, is that each member shows a great deal of respect for myself and for those others that we serve with. This respect is something that, I think, that we should portray and we should talk about it as we go back to our homes and talk about our service in government, because it is something that is unique, it is something that is impressive, and it is something that I believe, is highly unusual. I think that it is highly unusual to gather 24 members with the intelligence that I have seen here and that I have witnessed here. I just want to thank, Mr. President, each one of you. You for your service, you have been a fine President, and I have been honored to serve during your administration here and I was honored to support you in your effort to become the Senate President. I am very proud of the work that you have done. I want to say to each one of you, thank you so much, from the bottom of my heart, for the respect, for the cooperation and for the intelligence that you have shown to me during my tenure here. I want to tell each of you that even though I am not serving in the state Senate, I would like you to call on me at any time if I can be of service to you or to the state of New Hampshire and that I might in some way, sometime in the future, find the way to repay you for all that you have done for me. Thank you all so much.

RESOLUTION

Senator Barnes moved that the Senate be in recess until Tuesday, May 7, 1996 at 10:00 a.m. for the sole purpose of receiving House messages and Enrolled Bill reports and Enrolled Bill amendments.

Adopted.

In Recess.

Out of Recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

HB 277, relative to the joint health council.

HB 473, establishing the distance learning commission.

HB 1129, relative to the Laconia airport authority and relative to the Manchester airport.

HB 1168, relative to maintaining local control over certain franchises and allowing municipalities to coordinate franchising authorities.

HB 1189, changing the fee charged by towns and cities for uncollectible checks.

HB 1335, relative to the New Hampshire Main Street Center and local Main Street programs and making an appropriation therefor.

HB 1492, authorizing a city, town, or the state to allow the operation of OHRVs on certain sidewalks.

HB 1498, requiring the commissioner of administrative services to purchase electricity through the competitive bidding process.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bill:

HB 1352, relative to insurance coverage during pregnancy and delivery and the postpartum period.

HB 1357, relative to court decrees in title disputes.

HB 1458, relative to the commissioner's authority to make expenditures for certain railroad projects, and requiring the state to provide warning signs for public crossings over state-owned railroad lines.

HB 1509, making certain retired physicians immune from civil liability for volunteer health education services.

SB 603, relative to estate tax apportionments.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

HB 1107, relative to the operation of OHRV's.

HB 1160, establishing a committee to study college tuition savings plans for New Hampshire colleges.

HB 1119, allowing an option for reconsideration of votes at village district meetings and relative to the powers of the town of Conway concerning governance of its fire precincts.

HB 1599, postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years.

HB 1614, relative to the road toll refund.

HB 1604, relative to licensing of dogs.

Senator Currier moved adoption.

Adopted.

Out of recess.

In recess.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 659, allowing self-employed persons or business owners who have paid into the unemployment compensation fund to collect benefits.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Robert Hawkins
	Frank Bishop
	Kevin Attar
	Jane Kelley

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 623, to provide an optional retirement program for employees of the department of regional community-technical colleges.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Mert Dyer
	Robert Mercer
	Myron Steere
	Sandy Stettenheim

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 594, prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency and relative to the polling place and to special meetings under the official ballot option.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Tom Behrens
	Katherine Metzger
	Richard Noyes
	Paul McGuirk

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 566-FN, requiring transporters of hazardous material to maintain transportation liability insurance coverage.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Richard Wasson
Peter Showerman
William Phinney
Derek Owen

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 559-FN-L, declaring proposed public collective bargaining agreements to be public records subject to inspection.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Robert Hawkins
Robert Turner
John Gibson
Ben Baroody

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 517-L, relative to a property tax exemption for real estate used as rental housing by certain nonprofit charitable organizations and relative to assessments against owners of property in central business districts.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Betsy Patten
James MacKay
Norma Sabella
Allen Whipple

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bill sent down from the Senate:

SB 647-FN, permitting holders of certain licenses to sell specialty beer.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Senate Bill sent down from the Senate:

SB 542-FN, relative to license and registration suspensions, increasing the registration restoration fee and clarifying regulations regarding the registration and fees for semi-trailers.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 331-L, establishing one elderly exemption to replace the standard elderly exemption and the current optional elderly exemption laws.

HB 420, relative to habitability in manufactured housing parks.

HB 547-FN-L, establishing a deferred compensation plan for volunteer firefighters.

HB 580-FN, allowing the formation of and regulating limited liability partnerships, providing for registration fees, and relative to the application of the real estate transfer tax.

HB 606-L, excluding certain welfare recipients from the definition of public employee under the workers' compensation law.

HB 1113, relative to the order of names on state primary election ballots and to political advertising and relative to a contingent nullification.

HB 1122, modifying the term "compact area" relative to the use of firearms.

HB 1145-FN-L, authorizing municipalities to charge fees for certain administrative costs connected with excavation permits.

HB 1196, relative to the statute of limitations on claims under the consumer protection statutes.

HB 1267, relative to retail licenses to sell pistols and revolvers and to licenses to carry pistols and revolvers.

HB 1298, relative to driver's licenses and motor vehicle registrations for members of the armed forces and their spouses.

HB 1303, relative to the rulemaking authority of the commissioner of transportation.

HB 1306, exempting certain health clinics under the licensure law.

HB 1341-FN-A-L, relative to a corridor study of Route 101.

HB 1344, providing for an increase in the maximum cost of sweepstakes tickets and relative to the assignment of lottery prizes.

HB 1364, repealing the law requiring certain annual audits of accident and health insurers.

HB 1394, establishing a committee to study the reporting of medical test results to health care consumers.

HB 1410-L, relative to special revenue funds and relative to the payment of taxes in the town of North Hampton.

HB 1431, requiring individual health insurance policies to cover nonprescription enteral formulas.

HB 1459, relative to disclosure of information by insurers.

HB 1474, relative to legal name changes by individuals.

HB 1485, prohibiting insurance companies from mandating that automobile repairs be made at specific repair shops.

HB 1488, relative to the New Hampshire bankruptcy laws.

HB 1508-FN, requiring the department of safety to keep drivers' records confidential except for certain reasons.

HB 1513, relative to filings and records held by the secretary of state and relative to securities regulation.

HB 1562-FN-L, relative to preventing downshifting of welfare costs to cities and towns.

HB 1581, prohibiting the operation of a motorboat during license suspension or revocation for DWI and prohibiting the operation of a motor vehicle if a person has been convicted of boating while intoxicated.

HB 1613, prohibiting and eliminating exclusivity contracts between health care insurers and health care providers.

NOTICE OF RECONSIDERATION

Senator Danais served notice of reconsideration on **SB 625**, an act relative to insurance fraud.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, May 7, 1996 at 10:00 a.m.

Adopted.

Adjournment.

May 7, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

The Rev. Vincent Fischer was the chaplain of this body for twenty years. It was only after he was too frail to make it up the stairs of this State House that he gave up that role. He prayed for you in that high pitched voice of his razor sharp candor and laser beam precision.

Dr. Fischer died very early this morning. You should know that my final conversation with him, which took place on Friday, was about you. When I said the word "Senate" to him, he just smiled. He was a wise man.

So today, do your work carefully and respectfully and many people will end up smiling because of you - even if they know you as well as Vincent did.

Lord of life and Lord of death, give us each the perspective that will illuminate for us those things that are of real and lasting value in our work and in our relationships and let us have the brains and the courage to leave the rest behind. Then when You hear that word "Senate," O Lord, may it make You smile. Amen

Senator Keough led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

NOTICE OF RECONSIDERATION

Senator Wheeler served notice of reconsideration on **SB 90**, relative to uniform adjudicative hearing procedures for state agencies.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 533, prohibiting the recovery of certain costs associated with special utility contracts.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 533, prohibiting the recovery of certain costs associated with special utility contracts.

Senator Rodeschin moved to concur.

SENATOR F. KING: The special contract bill is especially important to all of our districts, but as you may know, there are a number of special contracts in my district now pending before the PUC. They have been agreed to by both the utility and the companies involved, and they have been submitted to the PUC, and some of them have been there for several months. In the bill there are two sections that deal with special contracts, those adopted prior to the bills' effective date, which is referenced in paragraph one, and those that are new special contracts after the effective date in paragraph two. One of the questions that I have is, are those contracts that are now agreed to, but not yet approved by the PUC, covered by the provisions of paragraph one?

SENATOR RODESCHIN: Yes.

SENATOR F. KING: Is it the committee's intent that this legislation might help break up the special contract log jam now over at the PUC?

SENATOR RODESCHIN: Yes.

SENATOR F. KING: Do you think that the PUC has gotten the message?

SENATOR RODESCHIN: I would certainly hope so, and being on the record, I think that if they read the record they will get the message.

SENATOR F. KING: Thank you very much.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 611, relative to the duties of real estate licensees.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 611, relative to the duties of real estate licensees.

Senator Rodeschin moved to concur.

Adopted.

COMMITTEE REPORTS

HB 647-FN-A, an act relative to transfers from the highway surplus account and relative to tolls charged on the Cheshire Bridge. Capital Budget Committee. Vote: 6-0. Ought to pass with amendment. Senator Gordon for the committee.

5905L

Amendment to HB 647-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to transfers from the highway surplus account,
relative to tolls charged on the Cheshire Bridge, and
requiring that warrant articles concerning the
issuance of bonds or notes by the town
of Bedford be in accordance
with the town charter.

Amend the bill by replacing all after section 2 with the following:

3 New Paragraph; Voting on Bonds and Notes. Amend RSA 39:3-d by inserting after paragraph IV the following new paragraph:

V. Notwithstanding paragraph IV, in the town of Bedford, articles concerning the issuance of bonds or notes shall be in accordance with Bedford's Town Charter, Article 1-5 Finance, Paragraph 1-5-11 Borrowing Procedure.

4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

I. Requires certain transfers to be made from the highway surplus accounts for fiscal year 1996.

II. Clarifies interest income resulting from tolls charged on the Cheshire Bridge.

III. Requires that warrant articles concerning the issuance of bonds or notes by the town of Bedford be in accordance with the town charter.

Senator Gordon moved to have **HB 647-FN-A**, an act relative to transfers from the highway surplus account and relative to tolls charged on the Cheshire Bridge, laid on the table.

Adopted.

LAID ON THE TABLE

HB 647-FN-A, an act relative to transfers from the highway surplus account and relative to tolls charged on the Cheshire Bridge.

HB 1025-FN-LOCAL, relative to a 10-year transportation plan, relative to the Derry local exit on I-93, and extending the lapse dates for certain capital appropriations to the department of transportation. Capital Budget Committee. Vote: 7-0. Ought to pass with amendment. Senator Gordon for the committee.

5876L

Amendment to HB 1025-FN-LOCAL

Amend RSA 240:3 as inserted by section 1 of the bill by inserting after paragraph X the following new paragraph:

XI. In future federal fiscal years:

(a) NH 140 Belmont/Tilton

Final design and reconstruct
from the intersection of I-93 in
Tilton to west of Belmont/
Gilmanton town line.

SENATOR GORDON: Over the course of this last year, the 10-year plan has wound itself through the legislative process. The bill updates the 10-year highway transportation plan to maintain the highways and the bridges in this state. It also inserts into the plan, the new Derry exit, and also extends lapse dates for certain capital appropriations to the Department of Transportation. The bill as amended by the Capital Budget Com-

mittee, also adds the 140 Belmont/Tilton design and reconstruction project to the end of the 10-year plans scheduled for completion in future federal fiscal year.

Amendment adopted.

Ordered to third reading.

HB 1505-A, an act making an appropriation to acquire privately-owned airports offered for sale. Capital Budget Committee. Vote: 6-0. Ought to pass with amendment. Senator Fraser for the committee.

5875L

Amendment to HB 1505-A

Amend the title of the bill by replacing it with the following:

AN ACT

expanding the authority of the commissioner of the department of transportation to use a certain appropriation to purchase airports.

Amend the bill by replacing all after the enacting clause with the following:

1 Amend 1990, 200:10 to read as follows:

200:10 Appropriation. The sum of \$3,000,000 is hereby appropriated to the commissioner of the department of transportation for the purchase of rail properties as defined by RSA 228:54, VIII including, but not limited to, abandoned railroad rights-of-way under RSA 228:60-a **and for the purchase of privately-owned airports offered for sale to the state under RSA 422:46**. This appropriation shall be nonlapsing.

2 Effective Date. This act shall take effect July 1, 1996.

AMENDED ANALYSIS

This bill allows the commissioner of the department of transportation to use an appropriation made in 1990 for the purchase of rail properties to purchase privately-owned airports offered for sale.

Senator Fraser moved to have **HB 1505-A**, an act making an appropriation to acquire privately-owned airports offered for sale, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1505-A, an act making an appropriation to acquire privately-owned airports offered for sale.

HB 1612-FN-L, an act requiring the state to transfer ownership of land currently leased from the state by Rockingham county for use as a parking lot for the Rockingham county courthouse to Rockingham county. Capital Budget Committee. Vote: 7-0. Ought to pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, HB 1612 requiring the state to transfer ownership of land currently leased from the state by Rockingham county for use as a parking lot for the Rockingham County Courthouse to Rockingham county. This bill as passed by the Capital Budget Committee transfers state owned property, the parking lot, adjacent to the Rockingham County Courthouse, from the state to Rockingham for the amount of \$35,000. Within 30 days of the sale of that parcel, 75 percent of that \$35,000 received from Rockingham county, shall be remitted to the federal highway administration as reimbursement for federal high-

way administration funds originally used to purchase this property. The remaining 25 percent shall be deposited in the highway fund. The sale of this parcel of land shall be finalized on or before January 1 1998. This bill was unanimously adopted by the committee and we urge its passage by the full Senate.

Adopted.

Ordered to third reading.

HB 151 FN, an act establishing a special license plate program, including related fees. Finance Committee. Vote: 6-0. Ought to pass. Senator Barnes for the committee.

SENATOR BARNES: This bill establishes a process so that affinity groups can obtain special license plates. The Department of Safety indicated that this bill may increase state restricted revenue and expenditures by an undeterminable amount. For every minimum order of plates, 100, \$4,000 will be generated in revenue and credited to the nonlapsing special license plate fund. Section II of this act shall take effect July 1, 1999 and the remainder of this act shall take effect July 1, 1996.

Adopted.

Ordered to third reading.

HB 530-FN, an act transferring the functions and duties of the director of state ski operations. Finance Committee. Vote: 6-0. Ought to pass with amendment. Senator Keough for the committee.

5895L

Amendment to HB 530-FN

Amend the bill by deleting sections 7, 8, 9, and 12 and renumbering the original sections 10, 11, 13, and 14 to read as 7-10, respectively.

This bill:

AMENDED ANALYSIS

(1) Abolishes the position of the director of state ski operations.

(2) Transfers the duties of the director of state ski operations to the director of parks and recreation.

SENATOR KEOUGH: HB 530 as amended by Senate Finance, deletes section 7, 8, 9 & 12 from the bill, which effectively removes the creation of a dedicated fund. This bill as amended, abolishes the position of the director of state ski operations and transfers the duties of the director of state ski operations to the director of State Parks and Recreation. This act shall take effect upon passage.

Amendment adopted.

Ordered to third reading.

HB 1162-FN, an act relative to making a supplemental appropriation for the veterinary diagnostic laboratory in the agriculture experiment station at the university of New Hampshire. Finance Committee. Vote: 7-0. Ought to pass with amendment. Senator Lovejoy for the committee.

5898L

Amendment to HB 1162-FN

Amend the bill by replacing section 1 with the following:

1 Veterinary Diagnostic Laboratory; Budget Amendment; Footnote Added. Amend PAU 02, 03, 04, class 94 and the totals and estimated source of funds for PAU 02, 03, 04 as inserted by 1995, 307:1 as follows:

	FY 96	FY 97
Strike Out:		
94 Operation Vet Diag Lab	32,850	32,850
Total	394,715	396,945
Estimated Source of Funds for		
Div Animal Industry		
General Fund	394,715	396,945
Total	394,715	396,945
Insert in place thereof:		
94 Operation Vet Diag Lab D	32,850	82,850
Total	394,715	446,945
Estimated Source of Funds for		
Div Animal Industry		
General Fund	394,715	446,945
Total	394,715	446,945

SENATOR LOVEJOY: Mr. President, this bill as amended by Senate Finance does not change the intent of the bill, it merely clarifies a mechanism to determine the amount of excess animal population control fees and expenditure. This bill as it came to Finance, made a supplemental appropriation for the Veterinary Diagnostic Laboratory in the Agricultural Station at the University of New Hampshire for \$85,000. Finance amended the appropriation to \$50,000. This appropriation from the general fund will help to restore two technical positions to full-time status and/or fill a vacant veterinary pathologist's position. These positions had been eliminated or reduced in recent years due to the decline in funding. The New Hampshire Veterinary Diagnostic Laboratory was established by the legislature in 1969. Its mission is to diagnose animal diseases with importance to human and animal health. The bill will take effect July 1, 1996. I will say that voluntarily some of the staff over there have taken already 10 percent cuts in their incomes, and they are working overtime and they're doing their best to make that diagnostic clinic work. This is a minimum appropriation that would be made to see that they stay in business. We recommend its passage.

Amendment adopted.

Ordered to third reading.

HB 1171-FN, an act relative to fees for number plates. Finance Committee. Vote: 6-0. Ought to pass with amendment. Senator Keough for the committee.

5900L

Amendment HB 1171-FN

Amend the bill by replacing all after section 4 with the following:
5 Effective Date. This act shall take effect July 1, 1996.

SENATOR KEOUGH: This bill will increase the annual registration fee for number plates from a \$1.50 to \$2.50. The increase in the plate fee will offset manufacturing and raw material cost which currently amount to about \$2.41 per plate. It also limits the funds in the reflectorized plate inventory fund to \$1 million. Any funds in excess of that amount will lapse into the highway fund. The bill as amended by Senate Finance removes the contingency which would have had the increase take place only in the event that we went to a three-color license plate. Testimony received by Senate Finance that our current cost situation on license plates justifies the increase.

Amendment adopted.

Ordered to third reading.

HB 1193-FN-L, an act relative to department of revenue administration reporting requirements relative to a yield tax on timber, establishing an exception from RSA 541-A for requirements on certain tax filing forms, and removing a budget footnote. Finance Committee. Vote: 7-0. Ought to pass with amendment. Senator Currier for the committee.

5823L

Amendment to HB 1193-FN-LOCAL

Amend RSA 21-J:13-a as inserted by section 4 by replacing it with the following:

21-J:13-a Exemption From Rulemaking Requirement. The commissioner shall be exempt from adopting, as rules pursuant to RSA 541-A, the requirements on the department's tax filing forms for the business profits tax, business enterprise tax, and interest and dividends tax.

Amend the bill by replacing section 9 with the following:

9 Removing Budget Footnotes. Amend the total and estimated sources of funds of 1995, 307:1, 01, 07, 03 as follows:

I. By striking out:

Total	985,544	856,252
Estimated source of funds for land taxes lost		
09 Agency income I	206,289	206,289
General fund	779,255	649,963
Total	985,544	856,252

II. By inserting:

Total	985,544	856,252
Estimated source of funds for land taxes lost		
09 Agency income	206,289	206,289
General fund	779,255	649,963
Total	985,544	856,252

SENATOR CURRIER: HB 1193 relative to the Department of Revenue Administration reporting requirements relative to a yield tax on timber, establishing an exception from RSA 541-A for requirements on certain tax filing forms, and removing a budget footnote. This bill as passed by the Senate Ways and Means Committee changes the reporting requirement that the Department of Revenue Administration regarding the revolving fund established for municipal offices employees education and training. It also removes the requirement that governing bodies of local government units, report on established revenues in their reports certifying appropriations voted. This bill clarifies that the penalty provisions for failure to file certifications and reports with the department, apply to all local government units. It also makes the commissioner exempt from adopting certain tax filing forms and establishes that formal yield tax and it constitutes a lien upon the real estate from which wood or timber is cut on the day the cutting actually commences. As amended by Senate Finance, the word "income" is replaced by "interest" in sections 21-J:13-a. The spacing and so forth is realigned in section 9. The bill takes effect 60 days after passage.

SENATOR SHAHEEN: Senator Currier, I just wonder if you could explain why we are exempting the commissioner of DRA from rulemaking in those specific areas?

SENATOR CURRIER: It comes down to the issue of defining the form in the rulemaking and part of it is very cumbersome because of tax laws

changing at the federal level and the report requirements relative to doing the rulemaking to define the form and where a particular line is on the form and so forth. That is basically what we are exempting. It is the form of the tax reporting form that we are exempting this from.

SENATOR SHAHEEN: So we can reassure people out there that they are not going to see something that is going to be a surprise to them in terms of these forms whenever they receive them again? It is not going to be anything new that people are going to be concerned about in terms of filling out those forms that they might not know about until they get them because this process is not going to go through rulemaking?

SENATOR CURRIER: It is our understanding, and having sat on the Rules Committee, that is a concern that an agency could put something on the form, that in fact, isn't in statute and require people to report certain aspects. This has been more of a technical problem dealing with current changes, in my opinion, the current changes at the federal level, in terms of reporting information and the need to streamline that and get it moving forward so that those tax forms can be readily available to collect the appropriate taxes. The committee was not concerned that the rulemaking process with regard to the concerns that you just mentioned, would be usurped as the result of this change.

SENATOR SHAHEEN: Thank you.

Amendment adopted.

Ordered to third reading.

HB 1229-FN-A, an act allowing owners of privately owned airports to receive partial state reimbursement grants for local property taxes paid on certain areas of such airports and making an appropriation therefor. Finance Committee. Vote: 6-0. Ought to pass. Senator Currier for the committee.

SENATOR CURRIER: This bill allows the owner of a privately owned airport to apply to the Director of the Division of Aeronautics for partial reimbursement of local property taxes paid. This bill makes a general fund appropriation of \$10,000 for the purpose of making reimbursements for the year 1997.

Adopted.

Ordered to third reading.

Senator Shaheen in opposition to HB 1229-FN-A.

HB 1271-FN, an act relative to exposure to infectious disease. Finance Committee. Vote: 6-0. Ought to pass. Senator Barnes for the committee.

SENATOR BARNES: HB 1271 expands RSA 141-G to include employees of prisons and other detention facilities, requiring testing for certain infectious diseases when an unprotected exposure occurs. The fiscal impact was thought to be minimal. This act shall take effect 60 days after its passage.

Adopted.

Ordered to third reading.

HB 1399, an act establishing 2 new positions in the department of environmental services to implement the sludge permit system; repealing the sewage disposal system fund; relative to sewage disposal system recording fees; and making appropriations from the balance contained in the sewage disposal system fund. Finance Committee. Vote: 7-0. Ought to pass with amendment. Senator Colantuono for the committee.

5896L

Amendment to HB 1399

Amend the title of the bill by replacing it with the following:

AN ACT

establishing 2 new positions in the department of environmental services to implement the sludge permit system and making appropriations from the balance contained in the sewage disposal system fund.

Amend the bill by deleting sections 3 and 4 and renumbering the original section 5 to read as 3.

AMENDED ANALYSIS

This bill establishes 2 new positions in the department of environmental services to implement the sludge permit system and makes appropriations to the department of environmental services from the balance of the sewage disposal system fund.

SENATOR COLANTUONO: HB 1399 originally established two new positions in the Department of Environmental Services to implement the sludge permit system. The bill repealed the sewage disposal system fund and makes appropriations to the Department of Environmental Services from the balance of the fund. It also repealed the provision requiring persons submitting waste disposal system plans to pay a fee for recording it with the registry of deeds. We didn't like those last two items, so the Finance Committee amended the bill to continue the fund and to continue the requirement for recording, but also to continue to appropriate the \$167,000 from the Sewage Disposal Fund to fund these two new positions. Thank you.

Amendment adopted.

Ordered to third reading.

HB 1515-A, an act establishing a telecommunications assistance program. Finance Committee. Vote: 6-0. Ought to pass with amendment. Senator Podles for the committee.

5893L

Amendment to HB 1515-A

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a telecommunications assistance program and appropriating certain funds for initial costs of such program.

Amend the bill by replacing section 2 with the following:

2 Initial Source of Funding. Moneys on deposit, as of the effective date of this act, in the escrow account associated with the telecommunications relay service established by public utilities commission order no. 20,236 shall be the initial source of funding and the sum of \$160,000 is hereby appropriated for fiscal year 1997 for the telecommunications assistance program established in RSA 362-E. This appropriation shall not lapse until June 30, 1998.

AMENDED ANALYSIS

This bill establishes a telecommunications assistance program, which shall be administered by the governor's commission on disability. The bill appropriates certain moneys for the initial costs of the new program.

SENATOR PODLES: There is a problem with the language in the bill, so I am moving to recommit.

Senator Podles moved to recommit.

Adopted.

HB 1515-A, is recommitted.

HB 1555-FN-A, an act authorizing the commissioner of the department of environmental services to impose administrative fines for certain environmental violations and continually appropriating certain fine revenues. Finance Committee. Vote: 6-0. Ought to pass. Senator Barnes for the committee.

SENATOR BARNES: This bill authorizes the commissioner of the Department of Environmental Services to impose administrative fines. It creates a schedule of administrative fines relative to air pollution control, the acid rain control act, the air toxic control act, the emissions reduction credits trading program and asbestos management and control. Administrative fines collected under the Asbestos Management and Control Act are deposited in a nonlapsing and continually appropriated amount established under RSA 141-E:12 paragraph II. This bill will have an unknown positive impact on the general fund. This act shall take effect January 1, 1997.

Adopted.

Ordered to third reading.

HB 1575, an act extending the study committee considering the adoption of a constitutional amendment allowing a yield tax on sand, gravel, and similar materials and relative to taxation of sand, gravel, and similar materials for the tax year ending March 31, 1998. Finance Committee. Vote: 7-0. Ought to pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, HB 1575 was drafted by a statutory joint study committee on which I served along with Senators Danais, Fraser and Johnson. For years cities and towns have been unable to understand the meaning of RSA 72:13, which is supposed to provide for taxation of mineral deposits. In September of 1994 the Board of Land and Tax Appeals issued an opinion interpreting RSA 72:13 involving Walpole that seems to require cities and towns use the so-called "discounted cash flow: (DCF) method to compute these taxes. Everyone who appeared before the committee agreed that the DCF method as a way to compute property tax for sand and gravel was not in the public interest. The committee was formed to consider a yield tax. The issue is complex. The committee is headed in the direction of a yield tax that will be revenue neutral, but we need time to complete our analysis. While we take this needed time, more municipalities feel that they have to adopt the DCF method. the committee unanimously opposes the DCF method, and wants it eliminated on a permanent basis as a means to tax construction aggregate. By the extension of the study, we intend to maintain the status quo created by the bill that created the committee. Until we have reached our conclusion, we do not want the use of DCF to expand. It is the committee's intent to conclude its work this fall and that until any recommendations can be acted upon by the legislature, towns not using RSA 72:13 or the DCF method, should not

start applying for it. Any town that has been using the DCF method can continue to do so, and any town that has been using the provisions of RSA 71:13 can also continue to do so.

Adopted.

Ordered to third reading.

HB 1590-FN, an act relative to the workers' compensation administration fund. Finance Committee. Vote: 5-0. Ought to pass with amendment. Senator Blaisdell for the committee.

5892L

Amendment to HB 1590-FN

Amend RSA 281-A:59, III as inserted by section 1 of the bill by replacing it the following:

III. Each insurance carrier and self-insurer, including the state, shall make payments to the fund of its pro rata share of one fiscal year's costs to be appropriated out of the fund. The governor is authorized to draw [his] **a** warrant for any sum payable by the state under this paragraph out of any money in the treasury not otherwise appropriated. The pro rata share shall be computed on the basis which the total workers' compensation benefits, including medical benefits, paid by each insurance carrier and self-insurer bore to the total workers' compensation benefits, including medical benefits, paid by all insurance carriers and self-insurers in the fiscal year ending in the preceding calendar year; provided, however, that no insurance carrier or self-insurer shall pay an assessment of less than \$100. The commissioner shall assess each insurance carrier and self-insurer as soon as possible after July 1 of each year. Total assessments shall not exceed [1-1/2 percent of the total compensation, including medical benefits, paid by all insurance carriers and self-insurers during the fiscal year which ended in the previous calendar year] ***the amount appropriated for the budget of the workers' compensation division of the department of labor for the fiscal year in which the assessment is made.*** The balance in the fund at the beginning of the new fiscal year shall proportionately reduce the assessments under this section. The commissioner shall have the authority to adopt rules, pursuant to RSA 541-A, relative to the manner in which such payments are to be made.

SENATOR BLAISDELL: Mr. President and members of the Senate, HB 1590 as amended, changes the amount of total assessments made by the insurance carriers to the workmens' compensation fund. It also clarifies assessments assessed by the commissioner which are paid by the special fund to active cases. The amendment merely makes technical changes to clarify the bill.

Amendment adopted.

Ordered to third reading.

HB 1603-FN, an act relative to the budget for the animal population control program. Finance Committee. Vote: 6-1. Ought to pass with amendment. Senator Lovejoy for the committee.

5899L

Amendment to HB 1603-FN

Amend the bill by replacing section 1 with the following:

1 Animal Population Control Fee. Notwithstanding any other provision of law, beginning with fiscal year 1995, and with prior approval of the fiscal committee:

I. If the animal population control fee charged under RSA 466 generates more revenue in a year than is budgeted by the department of agriculture, markets, and food for the animal population control program established in RSA 437-A, the commissioner of agriculture, markets, and food may expend the excess amount in the subsequent year for the purposes of RSA 437-A.

II. In the event that the fee revenue is less in a year than is budgeted, the commissioner of agriculture, markets, and food shall reduce the total appropriation for the animal population control program in the subsequent year by the amount of the shortfall.

AMENDED ANALYSIS

This bill requires that the budget for the animal population control program be adjusted if the animal population control fee, charged under RSA 466 and deposited in the general fund, generates more money or less money in the year than the program's budget.

This bill resulted from the pet overpopulation committee established by 1993, 246.

SENATOR LOVEJOY: I would point out, Mr. President, that I am doing the dog bills today and Senator Roberge is taking a hiatus, but appreciate the fact that they haven't had any cat calls. Mr. President, this bill as amended by Senate Finance, does not change the intent of the bill, it merely clarifies a mechanism to determine the amount of excess animal population control fees available for expenditure in the animal population's control program. This amendment compares the current level of revenue to the current appropriation for the program and any difference, either plus or minus as applied to the subsequent year. Mr. President, I should point out that since this legislature took action some three years ago, by raising the dog license fee by two dollars, and dedicating that money to a spay-neutering program. The program has been exceedingly successful. The euthanasia incidents of dogs in the state, has decreased by 38 percent in two years. This year, we have raised \$19,450 more than what was spent and the program, of course, is in a hiatus, we are not conducting the program any longer, we have saved the communities some \$200,000 to \$300,000 with this program. This bill simply allows us to take this \$19,450 and continue the program, and be able to spay and neuter about 600 more dogs in the process. We recommend its passage.

Amendment adopted.

Ordered to third reading.

HB 1619-A, an act authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River, authorizing the Dept. of Health and Human Services to reroof four buildings, extending the lapse date on the Plaistow district court design, relative to refunding bonds and credit arrangements for state notes, and relative to disaster assistance and making an appropriation therefor. Finance Committee. Vote: 6-0. Ought to pass with amendment. Senator Keough for the committee.

5909L

Amendment to HB 1619-A

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River, authorizing the department of health and human services to reroof 4 buildings, extending the lapse date on the Plaistow district court design, refunding bonds and credit arrangements for state notes, relative to disaster assistance and making an appropriation therefor, and relative to the Pease Development Authority and the Manchester airport.

Amend the bill by replacing all after section 9 with the following:

10 "Airport District" Redefined. Amend RSA 12-G:2, I to read as follows:

I. "Airport district" means:

(a) The property conveyed, granted or otherwise transferred to the authority by the federal government or any agency thereof pursuant to section 13(g) of the Surplus Property Act of 1944 [(50 U.S.C. App. section 1622(g))], as amended[;], ***or such other provision of federal law authorizing transfer of federal surplus property for airport purposes. Property conveyed, granted, or otherwise transferred to the authority in this manner shall automatically become part of the airport district, but may be removed from the airport district by the authority in accordance with the procedures prescribed in RSA 12-G:10, II, after the contraction of the airport district has been approved by the governing body of the municipality in which the land sought to be taken from the airport district is located; or,***

(b) Property conveyed, granted, or otherwise transferred to the authority by the federal government or any agency thereof, ***or otherwise acquired by the authority***, and declared or designated by the authority as the "airport district" in accordance with the procedures prescribed in RSA 12-G:10, II, after the expansion [or contraction] of the district has been approved by the governing body of the municipality in which the land sought to be added to or taken from the airport district is located. ***Such property may be subsequently removed from the airport district by the authority in accordance with the procedures prescribed in RSA 12-G:10, II, after the contraction of the airport district has been approved by the governing body of the municipality in which the land sought to be taken from the airport district is located.***

11 New Paragraph; "Surplus Property Act" Defined. Amend RSA 12-G:2 by inserting after paragraph XVII the following new paragraph:

XVIII. "Surplus Property Act" and all references to section 13(g) of the Surplus Property Act of 1944, as amended, mean any provision of federal law authorizing transfer of federal surplus property for airport purposes, including 49 U.S.C. section 4715(a); 50 U.S.C. App. section 1622(g), as amended, to the extent applicable prior to the enactment of 49 U.S.C. section 4715(a); and any other provision of federal law that may be subsequently enacted that authorizes the transfer of federal surplus property for airport purposes.

12 Payment of Lessee of Local Taxes; Former Pease Air Force Base. RSA 12-G:11, II(b) and (c) are repealed and reenacted to read as follows:

(b) In the case of such property leased from the authority, the lessee of such property shall pay all taxes duly assessed against such property no later than the due date. [If the lessee fails to pay such duly assessed taxes by the due date:]

(1) Interest shall accrue on the unpaid taxes at a rate of 18 percent per annum from the due date until such taxes are paid;

(2) The municipality in which the leased property is located shall have a lien, subordinate only to any existing lien of the authority or the state, upon any personal property including, but not limited to, equipment owned by the lessee, which lien shall continue in force from the due date until the taxes and accrued interest are paid; and

(3) The municipality may bring suit against the lessee in any court of competent jurisdiction for the recovery of any unpaid taxes and interest, together with reasonable attorney's fees and costs.

(c) Such tax payments shall be made at the times and in the manner prescribed for ad valorem property taxes for nongovernmental persons and shall be based on the valuation of the property determined by the respective municipality for such purpose, subject to any equalization or proportionality factor to be applied within such municipality. If the lessee or authority determines that any valuation made by a municipality is excessive, it may seek a reduction of the valuation by following the procedures prescribed in RSA 76 for the abatement of taxes.

13 Lapse Date Extension Clarified. Amend 1995, 309:33, II to read as follows:

II. The appropriation made to the department of health and human services in 1993, 359:1, V, as [extended] **amended** by 1994, 248:1 **and by section 4 of HB 1619-A of the 1996 legislative session**, for repairs to the main building **and for reroofing 4 buildings - YDC**.

14 Certain State Guarantees; Manchester Airport. Amend 1989, 265:8 as amended by 1992, 8:1 to read as follows:

265:8 State Guarantee. In view of the general public benefits expected to be derived from the projects to be financed under this act, and their contribution to the social and economic prosperity of the state, the governor and council may award an unconditional state guarantee of the principal of and interest on bonds issued under this act, notwithstanding the provisions of RSA 162-I:10. In the case of bonds issued under this act, the statement required by RSA 162-I:8, III and the finding required by RSA 162-I:9, II(b)(4) shall be modified to reflect the award of any state guarantee. The full faith and credit of the state shall be pledged for any such guarantees, but the total amount of the principal of bonds guaranteed by the state under this section shall not exceed \$50,000,000 and any interest thereon; **provided, however, that any state guarantee authorized under this section and not awarded prior to January 1, 1996, shall be rescinded**. The governor, with the advice and consent of the council, is authorized to draw [his] **a** warrant for such a sum out of any money in the treasury not otherwise appropriated, for the purpose of honoring any guarantee awarded under this section. The state's guarantee shall be evidenced on each guaranteed bond by an endorsement signed by the state treasurer in substantially the following form:

The state of New Hampshire hereby unconditionally guarantees the payment of the whole of the principal of and interest on the within bond and for the performance of such guarantee the full faith and credit of the state are pledged.

In connection with the award of a state guarantee, the governor and council may impose such terms and conditions as they may deem appropriate concerning the bonds, the use and operation of the airport facilities and the revenues therefrom, and reimbursement to the state if any state funds are used to honor the guarantee. Such terms and conditions may be contained in an agreement between the state and the city, to be executed on behalf of the state by the governor and the state treasurer and on behalf of the city by the authorized officers.

15 Effective Date.

I. Sections 1-9 and 13-14 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 1996.

AMENDED ANALYSIS

This bill:

(1) Refinances a sum of money owed to the Army Corp of Engineers for the dredging of the Portsmouth Harbor and the Piscataqua River.

(2) Authorizes the department of health and human services to use money appropriated to reroof 4 buildings and clarifies the lapse date on such appropriation.

(3) Extends the lapse date on an appropriation for the Plaistow district court design.

(4) Clarifies certain refunding bond provisions.

(5) Redefines "airport district" for purposes of the Pease development authority.

(6) Defines "Surplus Property Act" for purposes of the Pease development authority.

(7) Revises the provisions relating to payment by a lessee of local property taxes for land at the former Pease Air Force Base.

(8) Rescinds state guarantees authorized but not awarded prior to January 1, 1996, for business finance authority (formerly industrial development authority) financing of the Manchester airport.

SENATOR KEOUGH: Mr. President, as the Senate Clerk has just pointed out, this bill does many things, and it does refinance the cost of construction for dredging Portsmouth Harbor. It authorizes the YDC to reroof some buildings. It extends the lapse date for the Plaistow District Court and for refunding bonds and credit arrangements. It also makes an appropriation for a disaster relief. In addition to all of those things, the amendments, put in place in Senate Finance, number one, rescinds the state's guarantees authorized but not awarded prior to January 1, 1996 for the financing of the Manchester Airport Project. Secondly, it redefines the term "airport district" and defines the term "surplus property act" and revises various other provisions relating to the payment by a lessee of local property taxes relative to land at the former Pease Air Force Base. Finally, it clarifies the lapse date for the YDC roofing work to be done. Sections one through nine and 13 and 14 of this act, shall take effect immediately upon its passage, the remainder of the act shall take effect July 1, 1996.

SENATOR J. KING: Senator Keough, in your discussion you mentioned something about the Manchester Airport. Would you repeat that again?

SENATOR KEOUGH: Yes. The bill rescinds state guarantees authorized but not awarded prior to January 1, 1996, for the financing of the Manchester Airport Project. This was something that was done in the so-called CenterPlex bill, that provision was in the CenterPlex bill to free up state guarantee capacity. You know the fate of that bill, so we have to do it somewhere else.

SENATOR J. KING: I understand the \$50,000. Yes. Thank you very much.

Amendment adopted.

Ordered to third reading.

HB 1577-FN, an act relative to expenses for voluntary or court dispositional service plans. Judiciary Committee. Vote: 3-2. Ought to pass with amendment. Senator Wheeler for the committee.

5921L

Amendment to HB 1577-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to expenses for voluntary or court dispositional
service plans and relative to child support.

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Intent. The legislature intends for this act to apply to all cases open for reimbursement on or after July 1, 1995.

2 Delinquent Children; Parental Liability for Services Recoverable for One Year. RSA 169-B:40, I(c) is repealed and reenacted to read as follows:

(c) The state shall have a right of action over for such expenses against the parents or other persons chargeable by law and the right to require parents or other persons chargeable by law to assign to the state any insurance benefits that may be available to pay for all or a portion of the services provided. The department shall request reimbursement for such expenses from parents or other persons chargeable by law and shall request assignment to the state of any insurance benefits that may be available to pay for all or a portion of the services provided. The court shall require the parent or other person chargeable by law to submit a financial statement annually to the court, upon which the court shall make an order as to reimbursement to the state such as may be reasonable and just, based on the ability to pay of the parent or person chargeable by law. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance benefits available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per-month or per-week basis and shall continue from the time the services begin until 3 years beyond the time such services end, unless such reimbursement is fully paid prior to the end of the 3-year period. The court's jurisdiction to order reimbursement shall continue until the obligation to reimburse has been fulfilled. If the court does not issue a reimbursement order, the court shall issue written findings explaining why such reimbursement is not ordered. Notwithstanding the provisions of RSA 169-B:40, I(a), the court shall give preference to providers who qualify for third-party payment under the minor's insurance coverage, if any. The parents or other persons chargeable by law shall have the right to be relieved from any expenses if they can show that they had insurance in effect which denied payment based on the failure of the department or its agents to comply with reasonable prerequisites for coverage. The state shall not seek reimbursement from the parents or other persons chargeable by law for expenses incurred prior to an adjudication which later determines that the petition was not substantiated.

3 New Paragraph; Adoptive Parents of Delinquent Children. Amend RSA 169-B:40 by inserting after paragraph VII the following new paragraph:

VIII. Upon request by the adoptive parent of a child whose birth parents relinquished their parental rights to the department or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, the state, acting through the commissioner, may waive its right of action against such adoptive parent for all or a portion of the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.

4 Abused or Neglected Children; Parental Liability for Services Recoverable for One Year. RSA 169-C:27, I(c) is repealed and reenacted to read as follows:

(c) The state shall have a right of action over for such expenses against the parents or other persons chargeable by law and the right to require parents or other persons chargeable by law to assign to the state any insurance benefits that may be available to pay for all or a portion of the services provided. The department shall request reimbursement for such expenses from parents or other persons chargeable by law and shall request assignment to the state of any insurance benefits that may be available to pay for all or a portion of the services provided. The court shall require the parent or other person chargeable by law to submit a financial statement annually to the court, upon which the court shall make an order as to reimbursement to the state such as may be reasonable and just, based on the ability to pay of the parent or person chargeable by law. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance benefits available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per-month or per-week basis and shall continue from the time the services begin until 3 years beyond the time such services end, unless such reimbursement is fully paid prior to the end of the 3-year period. The court's jurisdiction to order reimbursement shall continue until the obligation to reimburse has been fulfilled. If the court does not issue a reimbursement order, the court shall issue written findings explaining why such reimbursement is not ordered. Notwithstanding the provisions of RSA 169-C:27, I(a), the court shall give preference to providers who qualify for third-party payment under the minor's insurance coverage, if any. The parents or other persons chargeable by law shall have the right to be relieved from any expenses if they can show that they had insurance in effect which denied payment based on the failure of the department or its agents to comply with reasonable prerequisites for coverage. The state shall not seek reimbursement from the parents or other persons chargeable by law for expenses incurred prior to an adjudication which later determines that the petition was not founded.

5 New Paragraph; Adoptive Parents of Abused or Neglected Children. Amend RSA 169-C:27 by inserting after paragraph VII the following new paragraph:

VIII. Upon request by the adoptive parent of a child whose birth parents relinquished their parental rights to the department or the parental rights of whose birth parents were terminated pursuant to a pe-

tition brought by the department, the state, acting through the commissioner, may waive its right of action against such adoptive parent for all or a portion of the expenses of services, placements and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.

6 Children in Need of Services; Parental Liability for Services Recoverable for One Year. RSA 169-D:29, I(c) is repealed and reenacted to read as follows:

(c) The state shall have a right of action over for such expenses against the parents or other persons chargeable by law and the right to require parents or other persons chargeable by law to assign to the state any insurance benefits that may be available to pay for all or a portion of the services provided. The department shall request reimbursement for such expenses from parents or other persons chargeable by law and shall request assignment to the state of any insurance benefits that may be available to pay for all or a portion of the services provided. The court shall require the parent or other person chargeable by law to submit a financial statement annually to the court, upon which the court shall make an order as to reimbursement to the state such as may be reasonable and just, based on the ability to pay of the parent or person chargeable by law. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance benefits available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per-month or per-week basis and shall continue from the time the services begin until 3 years beyond the time such services end, unless such reimbursement is fully paid prior to the end of the 3-year period. The court's jurisdiction to order reimbursement shall continue until the obligation to reimburse has been fulfilled. If the court does not issue a reimbursement order, the court shall issue written findings explaining why such reimbursement is not ordered. Notwithstanding the provisions of RSA 169-D:29, I(c), the court shall give preference to providers who qualify for third-party payment under the minor's insurance coverage, if any. The parents or other persons chargeable by law shall have the right to be relieved from any expenses if they can show that they had insurance in effect which denied payment based on the failure of the department or its agents to comply with reasonable prerequisites for coverage. The state shall not seek reimbursement from the parents or other persons chargeable by law for expenses incurred prior to an adjudication which later determines that the petition was not true.

7 New Paragraph; Adoptive Parents of Children in Need of Services. Amend RSA 169-D:29 by inserting after paragraph VII the following new paragraph:

VIII. Upon request by the adoptive parent of a child whose birth parents relinquished their parental rights to the department or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, the state, acting through the commissioner, may waive its right of action against such adoptive parent for all or a portion of the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.

8 Application of 1995, 308:60, 73, and 85; State's Right of Action for Recovery of Expenses and Transaction Costs for a Minor's Support. The provisions of RSA 169-B:40, I(c); 169-C:27, I(c); and 169-D:29, I(c) as amended by 1995, 308:60, 308:73, and 308:85, shall not be applied retroactive to July 1, 1995, and any person chargeable by law and adversely affected by the retroactive application of such provisions shall receive notice of such from the resident county and such liability shall be recalculated on the basis of the provisions of this act. The provisions of RSA 645 do not apply where oral or written agreements for reimbursement were reached before August 1, 1995, between the state and the person chargeable by law.

9 Application of Sections 1-8 of This Act. Sections 1-8 of this act shall apply to all liabilities incurred under RSA 169-B:40, I(c); 169-C:27, I(c); and 169-D:29, I(c) as of July 1, 1995.

10 Parental Intentional Interference With Custody or Visitation; Grounds for Modification. RSA 458:17, V is repealed and reenacted to read as follows:

V. Intentional interference by a parent who has permanent primary physical or permanent joint or shared physical custody with the visitation or custodial rights of the other parent shall be a basis for modifying physical custody without the necessity of showing harm to the child if the court finds that a change of physical custody would be in accordance with the best interests of the child. Except as provided in this paragraph, nothing in this section shall be construed to alter the standard for modification of a custody decree affecting physical custody of the child or children.

11 New Paragraph; Expedited Hearing on Issues of Interference With Rights of Physical Custody, Visitation, or Nonpayment of Child Support. Amend RSA 458:17 by inserting after paragraph XIV the following new paragraph:

XV. Any motion for contempt of a court order regarding physical custody or visitation or nonpayment of child support, if filed by a parent who has custodial or visitation rights pursuant to the court order, shall be reviewed by the court within 30 days.

12 New Paragraph; Parental Involvement Encouraged. Amend RSA 458-C:1 by inserting after paragraph III the following new paragraph:

IV. Involvement of both parents in their children's lives should be encouraged. Child support obligations shall be adjusted to reflect the financial impact on a non-custodial parent's household expenses when the children spend a significant amount of time in that parent's household.

13 Definition of "Adjusted Gross Income;" Gross Income Less Actual Full Amount of Medical Insurance. Amend RSA 458-C:2, I to read as follows:

I. "Adjusted gross income" means gross income, less:

(a) Court-ordered or administratively ordered support actually paid to others, for adults or children[;].

(b) [Fifty percent of] The actual amount paid for medical insurance coverage for the minor children of the parties; and].

(c) Mandatory, not discretionary, retirement contributions.

(d) Actual work-related child care expenses up to no more than an annual total of \$5,000 for one child, \$9,000 for 2 children, and \$12,000 for 3 or more children.

(e) Fifty percent of actual self-employment tax paid.

(f) Actual state income taxes paid.

14 Definition of "Minimum Support Order," Exception Added; Definition of "Net Income," State Income Tax Deleted and Medicare Added. Amend RSA 458-C:2, V and VI to read as follows:

V. "Minimum support order" means an order of support equal to \$50 per month, *except where custodial adjustments produce an order of support for a lower amount.*

VI. "Net income" means the parents' combined adjusted gross income less [state income taxes actually paid, and] standard deductions published and adjusted on an annual basis by the department of health and human services, for:

(a) Federal income tax[; and] *which amount shall be standardized and shall be based on the amount an employer withholds from a single person's monthly income who has claimed a withholding allowance for 2 dependents.*

(b) F.I.C.A. *which shall be calculated based on the employee's contribution of the social security tax and the employee's portion of the actual medicare tax paid.*

15 New Paragraph; "Total Support Obligation" Changed to "Basic Support Obligation". Amend RSA 458-C:2 by inserting after paragraph I the following new paragraph:

I-a. "Basic support obligation" means net income multiplied by the appropriate percentage derived from RSA 458-C:3, I and allocated between the parents in proportion to their respective incomes.

16 New Paragraph; "Overnights" Defined. Amend RSA 458-C:2 by inserting after paragraph VIII the following new paragraph:

VIII-a. "Overnights" means the court-ordered overnight periods that the children stay at each parent's home, except to the extent the court in its reasonable discretion finds otherwise in order to maintain fairness and equity. All findings of the court shall be in writing.

17 Child Support Formula Revised. RSA 458-C:3 is repealed and re-enacted to read as follows:

458-C:3 Child Support Formula. The amount of each parent's child support obligation shall be calculated as follows:

I. The basic support obligation shall be derived by subtracting from the father and mother's combined adjusted gross income the amount of the standard deductions for federal income tax and FICA/Medicare withholding, and multiplying that amount by the following appropriate percentage based on the number of children for whom a duty of support is owed in accordance with the child support guideline calculation table adjusted and published on an annual basis by the office of child support enforcement services:

Number of Children	Percentage of Net Income
1	25 percent
2	33 percent
3	40 percent
4 or more	45 percent

II. The basic support obligation shall be divided between the parents in proportion to their respective incomes to determine the basic parental support obligation.

III. If the court has ordered overnight physical custodial periods or visitation, each parent's support obligation shall be computed as follows:

(a)(1) Multiply the basic support obligation of each parent by 1.5 to determine the shared custody basic obligation.

(2) Determine the percentage of time the child spends with each parent by dividing the number of court-ordered overnights with each parent by 365.

(b) Each parent's child support obligation shall be equal to the amount determined for that parent in subparagraph (a)(1) multiplied by the percentage of time the child will be in the custody of the other parent as determined in subparagraph (a)(2).

(c) The parent with the larger obligation (the obligor) shall pay to the parent with the smaller obligation an amount equal to the difference between the 2 support obligations as determined in subparagraph (b). The parent with the smaller support obligation shall not be required to make support payments.

(d) If the amount of support to be paid by the obligor under subparagraph (c) exceeds the obligor's basic support amount, the support order shall equal the obligor's basic support obligation.

IV. Self-support reserve and minimum child support obligation.

(a) If the obligor parent's gross income is less than the self-support reserve and the court has found that the obligor is not voluntarily unemployed or voluntarily underemployed, the court shall order the child support obligation in the amount of a minimum support order.

(b) If the obligor parent's gross income is greater than the self-support reserve but payment of the order as calculated under this chapter would reduce the obligor parent's income below the self-support reserve, the obligor parent's share of the total support obligation shall be presumed to be the difference between the self-support reserve and that parent's adjusted gross income, but in any event shall be no less than the amount of a minimum support order.

V. All child support obligations calculated pursuant to this chapter shall be rounded to the nearest whole dollar.

18 "Natural or Adopted Children" Added. Amend RSA 458-C:5, I(c) to read as follows:

(c) The economic consequences of the presence of stepparents [or], stepchildren, ***or natural or adopted children;***

19 Mediated Child Support Agreements and Educational Expenses Added. Amend RSA 458-C:5, I(h) and (i) to read as follows:

(h) Split [or shared] custody arrangements;

(i) Child support agreements mediated by a marital mediator certified under RSA 328-C;

(j) The economic consequences to either party of voluntarily providing for the educational expenses of a child;

[(i)] ***(k)*** Other special circumstances found by the court to avoid an unreasonably low or confiscatory support order, taking all relevant circumstances into consideration.

20 Repeal. The following are repealed:

I. RSA 458-C:2, XI, relative to the definition of total support obligations.

II. RSA 458-C:4, III, relative to consideration of either party's stepchildren when applying the child support guidelines.

21 Effective Date.

I. Sections 10-20 of this act shall take effect January 1, 1997.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill provides that parental liability for the expenses for voluntary or court dispositional service plans shall be recoverable for a period from the time the services begin until 3 years beyond the time such services end, and provides application provisions for 1995, 306:60, 73, and 85 and the provisions set forth in this bill.

This bill also revises certain provisions concerning child support, custodial rights, and visitation.

SENATOR WHEELER: As you may remember in the last session we talked about how parents would pay for their services for delinquents, CHINS and abuse and neglect. This bill revisits those issues. It has been interpreted that the bill that we passed last year meant that parents should pay for those services retroactively to the passage of the bill, that they pay for those services in full, and in some cases that could mean that they pay for them for the rest of their life. This bill fixes the retroaction problem and says that parents will only start paying for services after the effective date of last years bill, which was July 1, 1995. It also says that the longest that they can be making payments on those services is three years. Those amounts would be ordered by the court according to what the family could afford. Also on this amendment is a very strongly supported by this Senate, SB 648 as passed by the Senate, new child support guidelines.

SENATOR PIGNATELLI: I want to speak for a few minutes about the process that we are going through here. It is a process that I find objectionable, and the people in this state should find objectionable. It is the reason why people say that we "ought not to watch sausage and laws being made." This is not the way to make laws for this state or for this country. Is this Washington, D.C or is this New Hampshire? Most of us know what is going on here, but for those of you that don't, and Senator Wheeler told you a little about what is going on in his last brief sentence. What we are doing is, we are tacking on a bill that passed the Senate, but has since over in the House, through their deliberate process, been referred for study. This is a legitimate study. I understand that there has already been a meeting that has taken place on this bill and that something will come out of it. It is the bill that passed the Senate on child support guidelines. It ought not to be tacked onto this bill that we know has to pass to protect families and parents. It ought to fly on its own through both bodies if it ought to become law. I think that this is inappropriate to start doing this. I don't think that it is an accident that the House is meeting tomorrow and not today. I think that they are looking at what we are doing. If this passes the way that it is here now, with that 648 bill tacked onto it, you can be sure that the House is going to look at bills that we have sent over that we would like to pass and tack on all of their amendments and all of their bills that we have killed over here for one reason or another. I think that some of the bills that we kill over here that come from the House, are not deserving to become law. I vote not to see them become law. I object to this process. There was also no public hearing before this amendment was introduced. Actually, what happened is that yesterday we were called on the telephone by the Judiciary Committee secretary and asked to vote on an amendment that we were all sort of supportive of on this bill. It made some minor changes and I support 1577 and the minor amendment that was going to come before us, but I was also told on the phone yesterday, "oh and by the way, SB 648 is now tacked onto this, so if you vote in favor of 1577," which I wanted to do, "you will also be voting in favor of a bill that the House has sent to study." I think that this is the wrong way to go about making law in this state.

SENATOR WHEELER: Senator Pignatelli, how did you vote on SB 648 when it was in the Judiciary Committee?

SENATOR PIGNATELLI: I was not supportive of it and I spoke out on the floor against it. I still do not support it. I might tell you also that even if I did support it, I wouldn't want to see it if the House killed it, to come back in another bill. I think that is the wrong way to go about making law in this state.

SENATOR WHEELER: SB 648 did receive a full hearing in both the House and the Senate, is that correct?

SENATOR PIGNATELLI: That is correct.

SENATOR WHEELER: Senator Pignatelli, also when we were discussing this bill, we did discuss in committee, near the end of the day that we wanted to put SB 648 on this bill in your presence. Is that correct?

SENATOR PIGNATELLI: That is correct; however, three of us did not want it to be put on, and one of us did not vote yesterday, who would have voted against putting this bill on.

SENATOR WHEELER: Is it also correct that a couple of senators were absent and we were forced, because they could not stay because of other commitments, to do this action by the telephone?

SENATOR PIGNATELLI: No, I don't believe that.

SENATOR WHEELER: Was Senator Cohen there?

SENATOR PIGNATELLI: I believe there is time to call a meeting when something of this much importance is being discussed. These are not minor issues, these are major issues affecting the people in this state and this is not the way to go about making law.

SENATOR WHEELER: I believe that we did call a meeting and senators had other commitments. Senator Cohen and Senator Gordon had to leave. Is that true?

SENATOR PIGNATELLI: I was not called for that meeting.

SENATOR RUBENS: Senator Wheeler, didn't SB 648 result in substance from the unanimous recommendations of a two-year study committee on this precise subject?

SENATOR WHEELER: Yes, Senator Rubens, the courts are in favor of this child support bill, Master Kelly and Judge Holman serve on that committee. Senator Podles, public members and many other people served on that committee and traveled all over the state, and had many meetings throughout the state, and this was the result of their study committee. It had strong support from that study committee and the Judiciary public hearing. It was supported very strongly in the Senate, very, very strongly in the Senate.

SENATOR J. KING: Senator Wheeler, is this the same bill that two years ago came out of the Public Health and Services Committee and was committed by the Public Health and Human Services and most of the people there liked it and then it changed. It went to a study committee?

SENATOR WHEELER: No it is not.

SENATOR PIGNATELLI: Senator Wheeler, do you believe that whenever we have study committees that we ought to take their recommendations and make them into law if they are unanimous recommendations?

SENATOR WHEELER: Senator Pignatelli, I believe that we need to take into consideration, the recommendations of the study committees. I believe that we did take into consideration the recommendation of the study

committees. That this vote on this bill here, was at least 18 to 6 in this Senate, supported by people of different persuasions and we did that. This is very important to the children of this state that this bill pass.

SENATOR PIGNATELLI: Do you not believe that the House Committee that is sending this to study will look at the recommendations of this committee and will come out with something that they believe ought to pass for the benefit of the people in this state?

SENATOR WHEELER: I believe that the House Committee did spend some time on this bill. I believe that by putting this bill onto HB 1577 that the House Committee will spend a little more time looking at this bill and will come up with the right answer.

SENATOR PIGNATELLI: Thank you.

SENATOR COHEN: I don't know any other way to put this, I am angry about this. There was a circumvention of the process here and this is wrong. This is not the right way to pass laws in the state of New Hampshire. I was not called for a meeting to see if I could meet yesterday. I most certainly could have met yesterday. We met in executive session to consider HB 1577. We agreed to make some changes to it and those changes are not in the bill that you have before you now. This was changed after our executive committee and that is wrong. We had specific changes in there, language changes that you do not see in the Senate Calendar here. For example, we had taken out, throughout this, the phrase "or other persons chargeable by law" but you see that in the bill now. We did not discuss adding SB 648 which has been considered, which has been heard in the House, which they are taking care of. If we have SB 648 on her the House will kill this. The House will definitely kill this. This is the wrong way to pass legislation. This is not what we discussed in executive committee. This is wrong.

SENATOR PODLES: Senator Cohen, isn't it true that I spoke to you yesterday on the phone from my office and explained the bill to you? I told you about the bill?

SENATOR COHEN: We discussed it very briefly, and this is different from what we discussed in our executive session. This is not what we agree to.

SENATOR PODLES: Isn't it true that you gave me a yes answer for the bill and then changed your mind later on after you called somebody?

SENATOR COHEN: Because I agreed with the bill as it came out of executive session, but that is not what I have in front of me. That is not what was later faxed to me.

SENATOR PODLES: Senator Cohen, isn't it true that I indicated that Senator Gordon had to be away all day and that we couldn't meet for a meeting, but you were given the paper and everything was on the paper?

SENATOR COHEN: I was available yesterday, I can't speak for other members of the committee. I was given this, and I looked at it and noticed that it was quite different from what we agreed to.

SENATOR PODLES: I don't think so, Senator.

SENATOR COLANTUONO: I would like to refocus onto the original bill. I do not agree with the policy of limiting the period of time in which parents have to reimburse the state. I believe that the only mistake that we made last year when we passed the bill was not making it clear that we

didn't intend to have retroactive liability. But I believe that the three-year limit is arbitrary. I think that it is too soft. I think that we got just a few complaints from some parents who had to pay this money back. I think that we gave in to those complaints. Now the courts are directed in the legislation to only make orders for reimbursements in amounts which parents can afford on a weekly or monthly basis, so this is not a financial hardship, but if you have a parent paying back \$10 a week or even \$20 a month, after three years, they are paying back minimal amounts of money compared to the thousands and thousands of dollars that are charged for services that the taxpayers of the state render to their own children. I think that with this new emphasis on individual responsibility, parental responsibility, we need to recognize that we should be requiring parents to pay back for longer than three years. I would have lengthened that period of time quite substantially. Thank you.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 1253-FN-A, an act relative to senior "meals on wheels" and senior transportation and making an appropriation therefor. Public Institutions, Health and Human Services Committee. Vote: 4-2. Ought to pass with amendment. Senator Larsen for the committee.

5918L

Amendment to HB 1253-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to senior "meals on wheels" and senior transportation
and transferring certain funds.

Amend the bill by replacing all after the enacting clause with the following:

1 Transfer; Department of Health and Human Services. Notwithstanding any other provisions of law, for fiscal year 1997 \$339,751 is hereby transferred from funds already appropriated to PAU 05-01-01-02-06, class 95 medicaid administrative fund, to the division of elderly and adult services or its successor entity, department of health and human services. Of the \$339,751, \$264,751 shall be used for senior meals to be allocated by the department to PAU 05-01-06-03-01, class 92 and 05-01-06-03-02, class 95, as appropriate, and \$75,000 shall be transferred to PAU 05-01-06-03-01, class 93 for transportation. This transfer shall be in addition to funds already appropriated to the department for these purposes. Funds appropriated for senior meals and transportation for fiscal year 1997 shall not be reduced or transferred for any other purpose.

2 Effective Date. This act shall take effect July 1, 1996.

AMENDED ANALYSIS

This bill transfers moneys from the administrative fund of the uncompensated care fund for the senior "meals on wheels" program and for senior transportation.

SENATOR LARSEN: It is my pleasure to stand up here today and recommend to you, HB 1253. HB 1253 will fund the meals on wheels program for our senior citizens, helping those many New Hampshire citizens receive the services that they need to stay in their own homes, thus, reducing the need for state supported residential care. Without this funding for Meals on Wheels, the state would see an increase in the expendi-

ture of Medicaid funds for long-term care for the elderly as local programs diminish. The bill will help reduce cost for long-term elderly care by maintaining community based services as advocated in HB 32 and helping elderly citizens remain independent and in their own homes. The committee amendment simply transfers monies from the 1997 Administrative Fund of the Uncompensated Care Fund. The committee urges this bill as ought to pass as amended.

Question is on the committee amendment.

A roll call was requested by Senator Wheeler.

Seconded by Senator Cohen.

The following Senators voted Yes: F. King, Gordon, Fraser, Rubens, Lovejoy, Currier, Roberge, Blaisdell, Stawasz, Pignatelli, Colantuono, Larsen, Podles, Barnes, J. King, Russman, Danaïs, Shaheen, Delahunty, Keough, Cohen.

The following Senators voted No: Johnson, Rodeschin, Wheeler.

Yeas: 21 - Nays: 3

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 1442, an act relative to children's services. Public Institutions, Health and Human Services Committee. Vote: 5-2. Ought to pass with amendment. Senator Wheeler for the committee.

5915L

Amendment to HB 1442-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Provision Relative to Incapacity of Parent Revised. Amend RSA 169-C:3, XVIII and XIX to read as follows:

XVIII. "Legal supervision" means a legal status created by court order [wherein] *in which* the child is permitted to remain in [his] *the family* home under the supervision of a child placing agency subject to further court order.

XIX. "Neglected child" means a child:

(a) Who has been abandoned by [his] *the* parents, guardian, or custodian; or

(b) Who is without proper parental care or control, subsistence, [education as required by law,] or other care or control necessary for [his] physical, mental, or emotional health, when it is established that [his] *such child's* health has suffered or is very likely to suffer serious impairment; and the deprivation is not due primarily to the lack of financial means of the parents, guardian or custodian; or

(c) Whose [parents] *parent*, guardian, or custodian [are] *is* unable to discharge [their] responsibilities to and for the child because of incarceration, hospitalization or other physical or mental incapacity; Provided, that no child who is, in good faith, under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to be a neglected child under this chapter.

2 "Recommendation" of Guardian ad Litem Substituted for "Findings." Amend RSA 169-C:10, II to read as follows:

II. In cases involving a neglected or abused child under this chapter, where the child's expressed interests conflict with the [findings] **recommendation for dispositional orders** of the guardian ad litem, the court may appoint an attorney to represent the interests of the child. In any case of neglect or abuse brought pursuant to this chapter, the court shall appoint an attorney to represent an indigent parent alleged to have neglected or abused his or her child. In addition, the court may appoint an attorney to represent an indigent parent not alleged to have neglected or abused his or her child if the parent is a household member and such independent legal representation is necessary to protect the parent's interests. The court shall not appoint an attorney to represent any other persons involved in a case brought under this chapter.

3 "Recommendation" of Guardian ad Litem Substituted for "Findings;" Valid Waiver Required. Amend RSA 169-D:12, II to read as follows:

II. In cases involving a child in need of services under this chapter, where the child's expressed interests conflict with the [findings] **recommendation for dispositional orders** of the guardian ad litem, the court may appoint an attorney to represent the interests of the child, **absent a valid waiver**.

4 Judicial Member to Make Order in Accordance with Decision of Review Panel. Amend RSA 169-G:4 to read as follows:

169-G:4 Amendment of Dispositional Orders. If the dispositional order is amended by an order substituting a different order or disposition of the case, **the judicial member of** the review panel shall make any other disposition of the case in accordance with the [order] **decision** of the review panel.

5 Quarterly Report Required. Amend RSA 169-G:6 to read as follows:

169-G:6 Quarterly Reports. The commissioner of the department of health and human services shall make quarterly reports to the house committee on judiciary and family law [and], the house finance committee, **and the senate public institutions, health and human services committee** containing statistical analysis on the use of RSA 169-D and voluntary service programs. Such reports shall include, but not be limited to, the costs including transaction costs incurred for services, programs, and placements provided, parental reimbursements collected, the number of out-of-state placements and the costs of such placements, and a comparison of such with the same statistics from the same quarter of the prior 2 fiscal years, and the number of appeals taken to the review panel by the department and the results thereof. The first report shall be due October 1, 1995.

6 Timing of Hearings on Ex Parte Orders Clarified. Amend RSA 463:7, I(a)(1) to read as follows:

(1) If temporary orders are made ex parte, the party against whom the orders are issued may file a written request with the court and request a hearing. Such a hearing shall be held no later than **10 calendar** days after the request is received by the court.

7 Standard of Evidence Specified. Amend RSA 463:15, V to read as follows:

V. The guardianship of the person shall be terminated upon a showing, **by a preponderance of the evidence**, that substitution or supplementation of parental care and supervision is no longer necessary to provide for the essential physical and safety needs of the minor and termination of the guardianship will not adversely affect the minor's psychological well-being.

8 Appointment of Guardian Ad Litem for Neglected or Abused Children; Cost Paid by Indigent Defense Fund. Amend RSA 604-A:1-a to read as follows:

604-A:1-a Neglected or Abused Children. In cases involving **a** neglected or abused [children, legal representation for the children shall be provided] **child, when a guardian ad litem is appointed for the child as provided in RSA 169-C:10, the cost of such appointment shall be paid by the indigent defense fund.**

9 Repeal. RSA 169-C:10-a, relative to the appointment of guardians ad litem in child protections cases, is repealed.

10 Effective Date.

I. Section 9 of this act shall take effect on the first day of the month following its passage.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

I. Requires a valid waiver of the appointment of an attorney for a child in need of services.

II. Requires the commissioner of health and human services to make quarterly reports to the public institutions, health and human services committee. Currently, the commissioner must make such reports to the house judiciary and family law committee and the house finance committee.

III. Revises the provision relative to parental incapacity in child protection cases.

IV. Provides that the judicial member of the review panel under RSA 169-G shall make any substituted order in accordance with the decision of the review panel.

V. Provides that the cost for the appointment of guardians ad litem for neglected or abused children shall be paid by the indigent defense fund.

VI. Clarifies timing of hearings on ex parte orders for guardianship of a minor.

VII. Specifies the evidentiary standard for determining guardianship of a minor.

VIII. Repeals the provision relative to the appointment of guardians ad litem and court appointed special advocates (CASA) guardians in child protection cases.

SENATOR WHEELER: HB 1442 as amended makes several technical changes in children's services. It provides that the judicial member of the review panel under RSA 169-G shall make any substituted order in accordance with the decision of the review panel. It revises a provision relative to parental incapacity in child protection cases. It provides that the cost for the appointment of guardian ad litem for neglected and abused children shall be paid by the Indigent Defense Fund. Also a couple of things that the Senate did not take from the House version would be, reappointing the members of the Juvenile Justice Commission and repealing the quarterly report to the House from the Children and Youth and Families. We added to that, that they will report to the Senate as well. We urge your adoption.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 1445-FN-A-L, an act providing for certain services for the developmentally disabled and making an appropriation therefor. Public Institutions, Health and Human Services Committee. Vote: 4-3. Inexpedient to legislate. Senator Wheeler for the committee.

SENATOR WHEELER: I have to tell you that this is a very, very difficult decision for everyone on the Public Institutions, Health and Human Services Committee who couldn't see fit to appropriate or to use new money outside the budgeting process to fund the waiting list. The mental health budget was not cut in the last budget. It was one of the only areas that was not cut. We are currently spending close to \$89 million on the services that those people would receive if they were not on the waiting list. We have a commitment from the Department of Health and Human Services to reduce the waiting list, both now and in the future. They have been successful in the last year, since we discussed this issue last year, in reducing the number of people on the waiting list, 15 percent, and perhaps by the end of the fiscal year, they may even hit 20 percent of those high priority cases that have been reduced from the waiting list. We believe that the waiting list issue should be addressed through HB 32. We have a commitment from Commissioner Morton that this is a priority item and that he will do the best that he can through less expensive delivery of services, maybe through less administration, but to make the money go just as far as it can go. We will address this in the next budget issue. It certainly will be a priority of mine, and I am sure, the rest of the Senate. So with regret, I would urge that you find this bill, this supplemental appropriation inexpedient to legislate.

SUBSTITUTE MOTION

Senator Blaisdell moved to **substitute ought to pass for inexpedient to legislate.**

SENATOR BLAISDELL: Someone a long time ago, said that the moral test of government is how we treat those in the dawn of life, our children, and those in the twilight of life, the elderly, the sick and the handicapped. I cannot believe that we would even want to address this more even in Finance. You can't be called big spenders in this session of the legislature, members of the Senate, you can't be. You have spent \$7,189 down in Finance. The \$7,188 I think, went to the War Memorial for Women, I am not sure, we spent \$1 in another area. Why don't you just send it down to Finance? This is a very important thing. I know that in my district alone, and it probably goes over into yours, Senator Wheeler, I was over your way the other night and spoke. People talked about the waiting list and how many people that are waiting for that. It is there. It is there for every one of you people. This is one of the great bucks that you can spend to take care of these people. I ask you to pass this bill and send it down to Finance to see if we can't get some kind of language to keep this going. Thank you.

SENATOR SHAHEEN: Senator Blaisdell, isn't it true that there is more of a surplus, in terms of the interest to the Health Care Transition Fund than was anticipated, and in fact, it is in excess of \$3 million, and that that would almost totally fund this bill, and that that is money that had not been counted on, there were no plans to use that money for anything? It is surplus money in terms of what was anticipated from the health care transition fund and that it would make sense to use that money to go ahead and to fund this bill?

SENATOR BLAISDELL: Absolutely, Senator Shaheen. If you listened to the governor this morning, at least now he is believing that there are health issues that face the people in the state of New Hampshire that we can use the health care transition fund, which it was meant for, as you remember?

SENATOR CURRIER: Would there be a waiting list if we funded this to the amount that they are talking about? Would there still be a waiting list?

SENATOR BLAISDELL: Absolutely, Senator, because there is a 100 years of neglect in the state of New Hampshire as with everything else. Sure there would be a waiting list, we can't take care of them all, God forbid.

SENATOR LARSEN: We saw numbers in committee that the health care transition fund surplus exceeds \$3 million. We know that there is money there. It is unanticipated, and it was not counted in last year's budget. We also heard arguments that the department would take care of this. This is our priority, my friends. This is our responsibility. There are times when we needed to direct the department on priorities that we see. We can do this. The department is arguing that they are going to take care of 15 percent of the families. That is 45 families out of 300, if we are lucky. You cannot keep these people waiting. You are putting stress on families. You are putting stress on marriages. It is wrong to do that. We know that there is money there. I ask Finance to look at this carefully and look in your hearts folks, cause this is a group that needs it. Thank you.

SENATOR PIGNATELLI: As a co-sponsor of this bill, I need to rise and tell you that I am disappointed in the policy committee's recommendation that this bill ought not to pass. We have a commitment to these people in the state. I attended the open house of our developmental disabilities area agency last Saturday. They just opened a new building in an abandoned mill in Nashua. I met some of the staff people and some of the recipients of services. I saw, first hand, the good that these services are doing the children and the adults who are taking part in these services. I would ask that we would continue that commitment and find the money in Finance to fund this bill. I think that it is a very important priority for us in the Senate and for the House, and for the state in general. I urge you to overturn the committee report and send this bill to Finance. Thank you.

SENATOR J. KING: I rise in support of Senator Blaisdell's motion of ought to pass. I think that we have obligated ourselves many years ago when we closed the institutions down. We said that we would take care of them in the community and we are not doing our job. I heard today what the governor said, that sometimes you have to invest in order to make money. Well here is the biggest investment that you can do. You can get these people to do a job and allowing the parents to work, and to go to school if they can. That is an investment in the future of these kids, plus the state of New Hampshire, plus any of the cities that have an abundance of them there, like the city of Manchester. As I said, we did obligate ourselves to take care of these people. I still say that it is a small investment, and I don't think that it is right to neglect these people. I, like others in here, feel very strongly about this bill as I did on Meals on Wheels, very strongly. I would never vote against it because my conscience would bother me for the rest of my life. I certainly am going to vote that this bill ought to pass. We can do it if we have to. We have spoken about losses here, but we always find the money. We can do it for this, too, and let's do it.

SENATOR GORDON: After listening to the statements, I feel compelled to speak. I came here this morning with the idea that I would probably vote against this, but I guess after listening the debate, I probably have

changed my mind. I have done that with the purpose of believing that perhaps we should send this to the Finance Committee and have them look at this to see, if in fact, there is a way of providing some funding. Let me explain my rationale. There are a number of things that we have done this year. We have been, I think, fiscally sound as a Senate, all year long. We have made tough decisions, difficult decisions, sometimes decisions that have been very difficult to go out and to explain to our constituents as to why we are doing what we are doing. We had to make priorities, we have had to make choices. Sometimes you do make decisions. We made a decision a little while ago in regard to Meals on Wheels. Meals on Wheels makes a lot of sense because even though, in a short term, there is \$400,000 perhaps, that we are going to end up spending that we might not have to spend in the short term, in the long term, that would cost us money. If we had 20 more people go into the nursing home, this state would spend more than \$400,000. So it makes a good long-term decision. I guess that in listening to the debate this morning on this particular topic, I guess that I feel the same way. This is a good long-term decision, in my mind. If we can invest in people who have disabilities, and if we can make those people productive and sound people, out working in our economy, with jobs, producing tax dollars, then in the long term, that is going to benefit the state of New Hampshire, and it is going to return more money than what we are spending on this program. So I am going to vote, I am not sure how I am going to vote in the final analysis if it does go to the Finance Committee, I might vote against it because the Finance Committee could come back and say that it isn't there and we can't do it, it just doesn't make economic sense, and I might vote against it. But today, I am going to vote for the motion of ought to pass because I think that we ought to give the Finance Committee an opportunity to look at it. I have said my piece, thank you, Mr. President.

SENATOR RUBENS: I rise to make the statement that I will be voting against the substitute motion of ought to pass. I have been lobbied intensively, Mr. President, by members of my community and people outside my district who are concerned who have children age 17, 18 and 19 who are concerned about the prospects of being on the waiting list; however, I am also convinced that those who administer the program at the Department of Health and Human Services, that they take with very seriousness, the state's responsibility with respect to the closing of the Laconia State facility. They take that responsibility with a seriousness of intent that the priority needs will be taken care of in a rational means. So I am rising in opposition to your substitute motion, because, again, I am entrusting those who administer the program to be doing their job diligently and in the proper way.

SENATOR J. KING: Senator Rubens, I also agree with you that we should entrust it to the Health and Human Services to run their program, but if you don't give them any funding to run the program, all that they do is get the grief and the blame, but there is no product to produce. Do you agree with me?

SENATOR RUBENS: Health and Human Services has made a statement, that again, they are taking this with very seriousness of intent, their obligation to provide a duty that flowed from the state's decision to close down the Laconia State facility, so I believe that they are giving the accurate information, and that they will provide services as they deem necessary.

SENATOR J. KING: Would you believe, that this is not an instant problem? This didn't just come about this year, it has been going on for several years, and the same problem as this, there is not enough money to fund this special program?

SENATOR RUBENS: I understand that as every states human services program, a look at the quality and the level of service can always be improved and even in our state where we have the number one quality of developmentally disabled services in the country, we can still improve that. I don't think that we should stop in our efforts to improve it. I think that HHS has indicated to us, that they are not going to back down just because we are number one.

Recess.

Out of recess.

Question is on the substitute motion of ought to pass.

A roll call was requested by Senator Shaheen.

Seconded by Senator J. King.

The following Senators voted Yes: Gordon, Blaisdell, Pignatelli, Larsen, Podles, J. King, Shaheen, Cohen.

The following Senators voted No: F. King, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Barnes, Russman, Danaïs, Delahunty, Keough.

Yeas: 8 - Nays: 16

Substitute motion of ought to pass failed.

Question is on the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1565-FN, an act changing the age of qualification for services in certain cases under RSA 169-D for children in need of services. Public Institutions, Health and Human Services Committee. Vote: 4-2-1 abstain. Ought to pass with amendment. Senator Wheeler for the committee.

5916L

Amendment to HB 1565-FN

Amend the title of the bill by replacing it with the following:

AN ACT

changing the age of qualification for services in certain cases under RSA 169-D for children in need of services, relative to the confidentiality of information and attendance at proceedings under the child protection act and relative to children's services.

Amend the bill by replacing all after the enacting clause with the following:

1 Children in Need of Services; Truancy Provision Deleted. RSA 169-D:2, IV is repealed and reenacted to read as follows:

IV. "Child in need of services" means:

(a)(1) A child who is under the age of 18 and who is expressly found to be a child who habitually runs away from home, or who repeatedly disregards the reasonable and lawful commands of the parents, guardian, or custodian and places the child or others in unsafe circumstances;
or

(2) A child who is under the age of 17 and who has exhibited willful repeated or habitual conduct constituting an offense which, if committed by an adult, would be a violation under the criminal code of this state; or

(3) A child who is under the age of 16 and who has exhibited willful repeated or habitual conduct constituting offenses which, if committed by a person 16 years of age or older, would be violations under the motor vehicle code of this state; and

(b) A child who is expressly found to be in need of care, guidance, counseling, discipline, supervision, treatment, or rehabilitation.

2 Children in Need of Services; Age Changed from 18 to 17. Amend RSA 169-D:3, III to read as follows:

III. The court shall close the case when the child reaches age [18] **17**, or if jurisdiction is retained, when the child ceases to be enrolled as a full-time student during sessions of the school, or graduates from such school, or upon reaching the age of 21, whichever shall first occur.

3 Advocate Allowed to Attend Hearings. Amend RSA 169-C:14 to read as follows:

169-C:14 Hearings Not Open to the Public.

I. The general public shall be excluded from any hearing under this chapter and such hearing shall, whenever possible, be held in rooms not used for criminal trials. Only such persons as the parties, their witnesses, counsel and representatives of the agencies present to perform their official duties shall be admitted.

II. Notwithstanding paragraph I, the accused may have one advocate on the accused's behalf in attendance at hearings.

4 Accused May Disclose Information Concerning Hearing. Amend RSA 169-C:25, II to read as follows:

II. It shall be unlawful for any party, **except the accused**, present during a child abuse or neglect hearing to disclose any information concerning the hearing without the prior permission of the court. Any person who knowingly violates this provision shall be guilty of a misdemeanor.

5 Provision Relative to Incapacity of Parent Revised. Amend RSA 169-C:3, XVIII and XIX to read as follows:

XVIII. "Legal supervision" means a legal status created by court order [wherein] **in which** the child is permitted to remain in [his] **the family** home under the supervision of a child placing agency subject to further court order.

XIX. "Neglected child" means a child:

(a) Who has been abandoned by [his] **the** parents, guardian, or custodian; or

(b) Who is without proper parental care or control, subsistence, [education as required by law,] or other care or control necessary for [his] physical, mental, or emotional health, when it is established that [his] **such child's** health has suffered or is very likely to suffer serious impairment; and the deprivation is not due primarily to the lack of financial means of the parents, guardian or custodian; or

(c) Whose [parents] **parent**, guardian, or custodian [are] **is** unable to discharge [their] responsibilities to and for the child because of incarceration, hospitalization or other physical or mental incapacity; Provided, that no child who is, in good faith, under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to be a neglected child under this chapter.

6 "Recommendation" of Guardian ad Litem Substituted for "Findings." Amend RSA 169-C:10, II to read as follows:

II. In cases involving a neglected or abused child under this chapter, where the child's expressed interests conflict with the [findings] **recommendation for dispositional orders** of the guardian ad litem, the court may appoint an attorney to represent the interests of the child. In any case of neglect or abuse brought pursuant to this chapter, the court shall appoint an attorney to represent an indigent parent alleged to have neglected or abused his or her child. In addition, the court may appoint an attorney to represent an indigent parent not alleged to have neglected or abused his or her child if the parent is a household member and such independent legal representation is necessary to protect the parent's interests. The court shall not appoint an attorney to represent any other persons involved in a case brought under this chapter.

7 "Recommendation" of Guardian ad Litem Substituted for "Findings;" Valid Waiver Required. Amend RSA 169-D:12, II to read as follows:

II. In cases involving a child in need of services under this chapter, where the child's expressed interests conflict with the [findings] **recommendation for dispositional orders** of the guardian ad litem, the court may appoint an attorney to represent the interests of the child, **absent a valid waiver**.

8 Judicial Member to Make Order in Accordance with Decision of Review Panel. Amend RSA 169-G:4 to read as follows:

169-G:4 Amendment of Dispositional Orders. If the dispositional order is amended by an order substituting a different order or disposition of the case, **the judicial member of** the review panel shall make any other disposition of the case in accordance with the [order] **decision** of the review panel.

9 Quarterly Report Required. Amend RSA 169-G:6 to read as follows:

169-G:6 Quarterly Reports. The commissioner of the department of health and human services shall make quarterly reports to the house committee on judiciary and family law [and], the house finance committee, **and the senate public institutions, health and human services committee** containing statistical analysis on the use of RSA 169-D and voluntary service programs. Such reports shall include, but not be limited to, the costs including transaction costs incurred for services, programs, and placements provided, parental reimbursements collected, the number of out-of-state placements and the costs of such placements, and a comparison of such with the same statistics from the same quarter of the prior 2 fiscal years, and the number of appeals taken to the review panel by the department and the results thereof. The first report shall be due October 1, 1995.

10 Timing of Hearings on Ex Parte Orders Clarified. Amend RSA 463:7, I(a)(1) to read as follows:

(1) If temporary orders are made ex parte, the party against whom the orders are issued may file a written request with the court and request a hearing. Such a hearing shall be held no later than **10 calendar** days after the request is received by the court.

11 Standard of Evidence Specified. Amend RSA 463:15, V to read as follows:

V. The guardianship of the person shall be terminated upon a showing, **by a preponderance of the evidence**, that substitution or supplementation of parental care and supervision is no longer necessary to provide for the essential physical and safety needs of the minor and termination of the guardianship will not adversely affect the minor's psychological well-being.

12 Appointment of Guardian Ad Litem for Neglected or Abused Children; Cost Paid by Indigent Defense Fund. Amend RSA 604-A:1-a to read as follows:

604-A:1-a Neglected or Abused Children. In cases involving *a* neglected or abused [children, legal representation for the children shall be provided] ***child, when a guardian ad litem is appointed for the child as provided in RSA 169-C:10, the cost of such appointment shall be paid by the indigent defense fund.***

13 Repeal. RSA 169-C:10-a, relative to the appointment of guardians ad litem in child protections cases, is repealed.

14 Effective Date.

I. Section 13 of this act shall take effect on the first day of the month following its passage.

II. Sections 1-4 shall take effect January 1, 1997.

III. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

I. Changes the age in certain cases relative to children in need of services and removes children, subject to compulsory school attendance, who are truant from school from the definition of a child in need of services.

II. Provides that the accused may have an advocate on behalf of the accused in attendance at the hearings, and the accused shall be exempt from the confidentiality provision relative to hearings in cases under the child protection act.

III. Requires a valid waiver of the appointment of an attorney for a child in need of services.

IV. Requires the commissioner of health and human services to make quarterly reports to the public institutions, health and human services committee. Currently, the commissioner must make such reports to the house judiciary and family law committee and the house finance committee.

V. Revises the provision relative to parental incapacity in child protection cases.

VI. Provides that the judicial member of the review panel under RSA 169-G shall make any substituted order in accordance with the decision of the review panel.

VII. Provides that the cost for the appointment of guardians ad litem for neglected or abused children shall be paid by the indigent defense fund.

VIII. Clarifies timing of hearings on ex parte orders for guardianship of a minor.

IX. Specifies the evidentiary standard for determining guardianship of a minor.

X. Repeals the provision relative to the appointment of guardians ad litem and court appointed special advocates (CASA) guardians in child protection cases.

SENATOR WHEELER: HB 1565 makes several changes in childrens services. Much to my amazement, DCYS came in and asked us that they relieve us of having a mandatory CHINS petition for a child who is truant, so that service is no longer an entitlement in the CHINS section; although a child who is a habitual problem, could be classified under a different language. Also it states that cases can be closed at the age of 17. It also gives the right of an accused to have an advocate there on their benefit, a volunteer advocate free or paid for by the accused. Also the changes in 1442 are in this bill as well. We urge your support for its passage.

SENATOR SHAHEEN: Senator Wheeler, am I correct that the other thing that this amendment does is allow the accused and only the accused, to disclose any information that comes out as the result of a hearing?

SENATOR WHEELER: No that is not correct, because currently in statute, the victim can talk to their advocate and to other people. The intent behind the accused part of this section is that usually there is an investigation done on your family, let us say an abuse and neglect case, and the division has talked to all of your neighbors, the division has talked to your boss, perhaps, the division has talked to your child's school teachers and acquaintances and things like that, and that accused has absolutely no way to defend their reputation unless they can talk to those people. Also what this does not do, is allow the accused to go to the press. Also in the current statute, the press is prohibited from reporting these things in the newspaper and to the public. So the practical effect of this amendment is that they could talk to the neighbors, the teachers and etceteras about their case, and about their child like they would need to talk to the teacher about their child or guidance counselor or square away their reputation with their neighbor.

SENATOR LARSEN: We heard this bill yesterday. I have to say that I felt that there was an abuse of the chairmanship to bring in new bills. This bill added an amendment, section three and four on page 18, which is substantially identical to HB 1373 which the House voted in March to refer to the Family Law Subcommittee of the House Judiciary and Family Law Committee. This amendment was added with no one in the room able to tell us quite what was going on. The chair clearly knew, but what it did, is section four would release the person alleged to have abused and only that person, from the confidentiality, and would permit the alleged abuser to discuss the case with anyone, but would not give the representative of the child, the division, or the representative of the parties that same right. Thus in a case when a child has been seriously physically abused, the person alleged to have caused the injury can go out and talk about it. No one else would have that right. Such a provision raises issues of fairness and compels the question, does this provision strike the appropriate balance between the rights of the child to live a life free from abuse and neglect and the rights of an individual alleged to have abused or neglected that right. I understand that the district court task force convened in January 1996 is reviewing all aspects of the juvenile statutes. This is an effort to hop scotch over that study. It is an effort to bring into effect a House Bill in which the House rejected, it didn't even get out of committee. It is the wrong time to be doing this, and it is the wrong subject. We should not be addressing juvenile abuse statutes when we are talking about CHINS. It is too late in the session and it has not had adequate review. Let's give it time for adequate review by the district court task force and reject this. I urge Finance to look this over carefully, and I urge you to reject this amended version in Finance. Thanks.

SENATOR WHEELER: Senator Larsen, isn't it true that during this whole session with public hearings on children's issues, that many people have come into our committee and said that they would like to have an advocate with them in these proceedings?

SENATOR LARSEN: I have heard discussions on that, but I have not heard that the department advocates that and I have heard concerns from the department over time, that advocates slow the process down and

add a great deal of time to it. What the department has told us, is that they are concerned that an advocate under this amendment, has no defined role. The department wants further time to see if they are going to have advocates, which I am not sure anyone totally opposes, but we need to know what those roles will be. Will they be attorneys or guardians ad litem? They need to have clearly defined responsibilities answerable for the conduct to the court. None of that is outlined in this amendment. This is a last minute attempt to get a point across which I understand that there is an effort to be made, but it needs to be studied further. The responsibilities of that advocate, the rules of procedure for that advocate, need to be defined and it is not defined, and it was done so quickly yesterday that I am not sure that those who would know best how to define it were there. So that is why I have real trouble with doing this as a last minute effort.

SENATOR WHEELER: Senator Larsen, isn't it true that the other party in the action, in existing law, already had the right to have an advocate with them, but it is only the accused that has no right to have moral support with them in the court room?

SENATOR LARSEN: Senator, it is my understanding that there is a District Court Task Force looking at this process. I do not believe that the Health and Human Services Committee should be reviewing this. If anything, it should have been in the Senate Judiciary Committee. This is an advocacy proceeding and I need to hear further how to define the roles of that advocate.

SENATOR WHEELER: Senator Larson, isn't it also true that all of the other parties in the action can talk to each other, but the accused can't?

SENATOR LARSEN: My understanding from the department, is that it is all a confidential procedure and what you are giving in this amendment, I am also understanding that some people who are familiar with the process, indicate that no is the right answer to your question. But my understanding is, that those who are offered an opportunity or who are alleged to have abused, are not, it is not possible for them to do that.

SENATOR SHAHEEN: I would just like to go back to a couple of statements that Senator Wheeler has made, because my understanding of this amendment is certainly different than his. I would ask that Finance, when you get this bill, try to clarify the answers to these questions. First of all, Senator Wheeler said that the language in the amendment would allow the accused to talk about the proceedings, but it would prohibit the accused from talking to the press. It is my understanding, that in fact, that is incorrect, and that this language would allow the accused, and only the accused, to talk to members of the media and the press. It seems to me that that is not a particularly fair or appropriate balance between the accused and the TAPE CHANGE. I would look at that very carefully. The second disagreement that I would have with Senator Wheeler, is relative to the advocate section, because while I would agree that the law now prohibits the accused from having an advocate there, it does however, give them the right to have an attorney there. I think that most of us would agree that an attorney representing the accused is probably pretty much an advocate for the accused. Advocate as identified in this legislation is not defined, and that, I believe, is one of the questions. If we are going to allow an advocate to be present at these proceedings, and I think that might be appropriate, but I think that if we are, we need to define what role that advocate is going to play. The other parties to any

proceedings, have very clearly defined roles according to the court. It seems to me that if we are going to expand on roles of people in those hearings that we ought to very clearly define what those roles are going to be. So I would urge the Finance Committee to look very carefully at this amendment and to consider whether what is being added on in this amendment is really the right direction for us to be taking.

Question is on the committee amendment.

A division vote was requested.

Yeas: 13 - Nays: 8

Amendment adopted.

Referred to the Finance Committee (Rule #24).

HB 1576-FN, an act relative to extended detoxification of pregnant and postpartum heroin addicts utilizing the controlled drug methadone. Public Institutions, Health and Human Services Committee. Vote: 5-2. Ought to pass with amendment. Senator Wheeler for the committee.

5887L

Amendment to HB 1576-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to extended detoxification of pregnant and postpartum
heroin addicts utilizing the controlled drug methadone
and relative to lead paint insurance coverage
and lead paint risk reduction.

Amend RSA 318-B:10, VIII(b) as inserted by section 2 of the bill by replacing it with the following:

(b) The commissioner of health and human services shall adopt rules pursuant to RSA 541-A, relative to:

(1) Eligibility for the program.

(2) Length of time in the program.

(3) Requirements for participation in prenatal and postnatal care.

(4) A provision that the length of time for methadone use after birth shall not exceed 3 months.

(5) Security measures to prevent diversion of methadone to illegal use, including requiring that methadone be consumed in the presence of a health care provider.

(6) Any other provisions necessary to implement the purposes of this paragraph.

Amend the bill by replacing section 3 with the following:

3 Reference Deleted. Amend RSA 318-B:10, VII to read as follows:

VII. [Except as provided in paragraph VIII,] No person shall operate a methadone maintenance program in this state. "Methadone maintenance program" means a program designed to substitute the administration of methadone for the illegal use of heroin over a period of time beyond the minimum necessary to resolve physiological addiction to heroin. Nothing in this paragraph shall prohibit a practitioner from administering, prescribing, or dispensing a controlled drug under paragraph I.

4 Applicability. The extended detoxification program established in section 2 of this act shall terminate 5 years from the effective date of this section, which date shall be certified by the commissioner of health and human services to the secretary of state. Sections 3 and 5 of this act shall take effect upon such date.

5 Repeal. RSA 318-B:10, VIII, relative to the extended detoxification program, is repealed.

6 Exceptions Added. Amend RSA 130-A:1, XVIII to read as follows:

XVIII. "Owner" means any person who, alone or jointly or severally with others, has legal title to any dwelling, dwelling unit, or child care facility, or a person who has charge, care or control of a dwelling, dwelling unit, or child care facility as an agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner. An agent of the owner excludes real estate, property management, and other entities which do not have authority to fund capital or major property rehabilitation on behalf of the owner. The term "owner" does not include a person who holds indicia of ownership primarily to protect a mortgage interest or security interest in real or personal property on or at a dwelling, dwelling unit or child care facility and who does not participate in the management of a dwelling, dwelling unit or child care facility. ***The term "owner" shall also not include a trustee or a beneficiary under a deed of trust or a mortgagee, or the owner of a reversionary interest under a ground rent lease.*** For the purpose of this definition, the owner of publicly owned dwellings, dwelling units or child care facilities shall be the chief administrative officer of the responsible town, city, county or state agency.

7 New Paragraphs; Definitions Added. Amend RSA 130-A:1 by inserting after paragraph XXI the following new paragraphs:

XXII. "Affected property" means a property constructed before 1978 that contains at least one rented or leased dwelling or dwelling unit or any residential rental property for which the owner makes an election. The term "affected property", except per the election, does not include property certified as lead free, certified as in compliance, or certified as lead safe under this chapter. The term "affected property" also does not include property owned by the state or a political subdivision of the state.

XXIII. "Elevated blood lead" or "EBL" means a quantity of lead in whole venous blood that is at least 20 micrograms per deciliter or higher as reported on two separate tests except that a blood lead level may be designated as elevated by the attending physician when the level reported meets or exceeds 20 micrograms per deciliter on the first test. With such a declaration a second test shall not be required.

XXIV. "Person at risk" means a child 72 months of age or less or pregnant woman who resides in the affected property.

XXV. "Relocation expenses" means all expenses necessitated by the relocation of a tenant's household to lead-safe housing, including moving and hauling expenses.

XXVI. "Rent subsidy" means the difference between the rent paid by a tenant for housing at the time a qualified offer is made under RSA 130-A:15-f and the rent due for the lead-safe housing to which the tenant is relocated.

XXVII. "Risk reduction inspector" means any person who is accredited through the American Society of Home Inspectors, or equivalent, and has successfully completed a risk reduction inspector course.

8 Elevated Blood Levels. Amend RSA 130-A:5, I to read as follows:

I. The commissioner may investigate cases of lead poisoning in children reported under RSA 141-A [whose blood lead level meets or exceeds 20 micrograms per deciliter of whole blood] ***who are reported to have an EBL.*** The commissioner may also conduct investigations when there is a tendency to believe that a lead exposure hazard, as defined in RSA 130-A:1, XVI(b) and (d), for a child exists. Such investigations shall include, but not be limited to:

9 Nominal Construction Activities. Amend RSA 130-A:9, VI to read as follows:

VI. No person shall engage any individual for lead base substance abatement who has not been tested and certified under RSA 130-A:12. ***However, individuals not certified under RSA 130-A:12, II, may engage in activities related to a lead exposure hazard reduction plan, such as, but not limited to, installation of exterior siding, carpet or paving, or application of encapsulants, provided the individual does not engage directly in lead base substance abatement, the tasks do not require personal protective equipment, and the plan is reviewed by a contractor licensed under RSA 130-A:12, I.***

10 Conduct of Inspections. Amend RSA 130-A:10, III to read as follows:

III. The conduct of inspections and inspection standards for lead inspectors, including procedures for issuing certificates of inspection, certifications of compliance ***resulting from an ordered abatement or when found to be equivalent to abatement standards under this chapter***, and certifications when a dwelling or dwelling unit is found to be lead free, certifications when a ***dwelling or*** dwelling unit is found to be lead safe and for the review and validation of such certificates or certifications by the department for any person who so requests.

11 Clarification. Amend RSA 130-A:10, VIII to read as follows:

VIII. Procedures for lead base substance abatement, in-place management, and interim controls for interior and exterior surfaces. The procedures shall include methods of abatement and the measures necessary to protect the health and safety of lead abatement workers and to control the release of lead base substances to the environment. ***The methods shall allow for alternative procedures that achieve the defined standard provided that they protect the health and safety of the lead abatement worker and do not cause the release of lead base substances to the environment.***

12 Reference Additions. Amend RSA 130-A:7, I to read as follows:

I. Whenever the commissioner has reason to believe that the provisions of RSA 130-A:8 [or], RSA 130-A:9, ***RSA 130-A:15-b, I(b)(2), RSA 130-A:15-c, IX(a), or RSA 130-A:15-d, IV***, or any rule adopted by the commissioner under this chapter has been violated, the commissioner shall issue a notice of violation. The commissioner [shall] ***may*** also impose administrative fines under RSA 130-A:14 and may also request injunctive relief under RSA 130-A:17.

13 New Paragraphs; Prohibitions Added. Amend RSA 130-A:9 by inserting after paragraph VII the following new paragraph:

VIII. No person shall perform a risk reduction inspection who is not accredited through the American Society of Home Inspectors, or equivalent, and who has not first completed an eight hour maximum risk reduction inspector's course as developed by the department.

IX. No person shall perform a risk reduction inspection in any property in which they have a financial interest.

14 New Subdivision; Insurance for Buildings Containing Lead Base Substance. Amend RSA 130-A by inserting after section 15 the following new subdivision:

Insurance for Buildings Containing Lead Base Substance

130-A:15-a Notification of Elevated Blood Levels. Whenever the commissioner makes an investigation under RSA 130-A:5 or an inspection under RSA 130-A:6, or both, the commissioner shall confirm that the following have been notified of the results of the test:

I. The person at risk, or in the case of a minor, the parent or guardian of the person at risk; and

II. The owner of the affected property in which the person at risk resides or regularly spends at least 10 hours per week.

130-A:15-b Risk Reduction Standards. No later than the first change in occupancy in a dwelling or dwelling unit in an affected property that occurs on or after 180 days from the effective date of this subdivision, anywhere a lead exposure hazard may occur, the owner of an affected property shall implement the risk reduction standards in this section in each dwelling or dwelling unit as they become vacant:

I.(a) Except for a replacement window or door that is free of lead base paint on its friction surface, or a window or door that has been tested by a certified inspector to be free of lead base paint on all exposed surfaces, when implementing the risk reduction standards of this section, a property owner or person shall utilize the following lead base paint stabilization measures specified in subparagraphs (b)-(k).

(b)(1) The following practices shall be prohibited while conducting risk reduction activities:

(A) Torch or flame burning, except for the removal of window glazing;

(B) Propane-fueled heat grids;

(C) Heating elements operating above 1100 degrees Fahrenheit;

(D) Dry abrasive sanding or blasting using sand, grit or any other particulate without an HEPA local vacuum;

(E) Uncontained hydro blasting or uncontained high pressure wash;

(F) Use of methylene chloride or solutions containing methylene chloride in interior work areas; and

(G) Encapsulants that have not been approved under RSA 130-A.

(2) Any person who willfully, maliciously and purposely uses these prohibited practices or who, when implementing the risk reduction standards under this paragraph, willfully and purposely fails to comply with such standards shall be liable for fines per RSA 130-A:14.

(c) Prior to commencing any dust generating risk reduction activity on an area larger than 30 square feet in the interior of any rented or leased occupied dwelling, rented or leased occupied dwelling unit or occupied child care facility, the property owner or other person shall prepare all interior work areas in accordance with the following requirements:

(1) All objects in the work area which are not being treated shall be completely covered with polyethylene sheeting at least 6 mils thick, sealed and taped securely in place with waterproof tape;

(2) All openings and penetrations between any risk reduction work area and all other areas within a building shall be sealed with polyethylene sheeting at least 6 mils thick secured with waterproof tape;

(3) Floor carpets shall be covered with at least one layer of polyethylene sheeting at least 6 mils thick, secured firmly with waterproof tape;

(4) All polyethylene sheeting and sealant materials shall be maintained to prevent the release of lead or lead contaminated materials from the work area into any other portion of the property; and

(5) If a break occurs in the sheeting that is covering carpeting, the carpet shall be cleaned at least by a thorough vacuuming with an HEPA filter vacuum.

(d)(1) Prior to commencing any dust generating risk reduction activity on the exterior of any rented or leased dwelling, rented or leased dwelling unit, or child care facility, the property owner or other person shall prepare all exterior work areas in accordance with subparagraph (2).

(2) Implement measures to ensure that all lead substances and lead dust will be contained in the work area, in accordance with the following:

(A) Doors, windows or other openings on the side of a building where any dust generating exterior risk reduction activity is planned, shall be securely closed; otherwise the opening shall be covered and sealed with polyethylene sheeting at least 6 mils thick and secured with waterproof tape;

(B) Whenever liquid or non-liquid waste is produced by any risk reduction technique, the ground or floor surface under all work areas shall be covered with polyethylene sheeting at least 6 mils thick;

(C) The sheeting shall be used as follows:

(i) When sheeting is placed on the ground, it shall be raised at its edges abutting the foundation at least 3 inches and shall extend out from the foundation at least 3 feet per story being worked on, with a minimum of 5 feet and a maximum of 20 feet to contain all waste;

(ii) The sheeting shall be securely fastened to the foundation or exterior wall with industrial staples or waterproof tape;

(iii) The sheeting shall be sealed at all seams with waterproof tape;

(iv) When sheeting is placed on an exterior floor, it shall be raised at its edges which are against a vertical surface at least 3 inches to contain all waste and shall cover the entire floor; and

(v) If the constant wind speed is more than 20 miles per hour, risk reduction activities producing dry wastes or lead-contaminated dust shall not be performed unless vertical shrouds are constructed which contain all lead dust within an area where there is no public access.

(e) Lead base paint stabilization of interior surfaces shall be conducted in the following manner:

(1) Loose and flaking paint shall be scraped away from surfaces, however, if dwelling or dwelling unit is occupied, such surfaces will be first misted with water;

(2) All surfaces shall be vacuumed with a high efficiency particulate air (HEPA) vacuum until no visible dust or debris remains;

(3) All surfaces shall be cleaned using a high phosphate detergent solution and rinsed with clean water;

(4) After being allowed to dry, all surfaces shall be HEPA vacuumed again;

(5) All bare surfaces shall be primed with primer; and

(6) All previously painted surfaces shall be covered with paint or other coating.

(f) Lead base paint stabilization of exterior surfaces shall be conducted in the following manner:

(1) Loose and flaking paint shall be removed; then

(2) All surfaces shall be cleaned using a high phosphate detergent solution and rinsed with clean water;

(3) All adjacent horizontal surfaces shall be vacuumed with a HEPA vacuum, cleaned with a high phosphate detergent solution, and rinsed with clean water; and

(4) One or a combination of the two following methods shall be utilized to cover the external surfaces:

(A) Recoating of repaired surfaces by:

(i) Priming all bare surfaces with primer; and

(ii) Then covering repaired surfaces with paint or other coat-

ing; or

(B) Enclosing surfaces with vinyl or aluminum siding.

(g) Lead base paint stabilization shall be conducted only when the substrate of the surfaces to be treated are dry, clean, and in good repair, prior to the application of new paint or other coating.

(h) The following exterior conditions, if they can cause a lead exposure hazard to exist, shall be repaired prior to conducting lead base paint stabilization:

(1) Damaged or missing flashing on a door or a window;

(2) Damaged or missing roof flashing;

(3) Siding in contact with soil;

(4) Water damaged siding or clapboards;

(5) Missing or deteriorated trim on a door or window opening;

(6) Missing or broken window panes;

(7) Missing, damaged or deteriorated window caulking or glazing; or

(8) Any other deterioration or damage to building components that would compromise the effectiveness of these standards.

(i) The following interior conditions, if they can cause lead exposure hazards to exist, shall be repaired prior to conducting lead base paint stabilization:

(1) Visual leaks in wastelines, traps, supply lines, or fixtures above or in rooms undergoing lead base paint stabilization;

(2) Clogged condensate drip lines for air conditioners in, above, or adjacent to rooms undergoing lead base paint stabilization;

(3) Water heaters, free standing dishwashers, and washing machines without drip pans or overflow mechanism in, above, or adjacent to rooms undergoing lead base paint stabilization;

(4) Inadequately ventilated attic spaces, bathrooms, kitchens, and laundry spaces where there is visual evidence that inadequate ventilation is causing lead base paint surfaces to fail;

(5) Clogged plumbing fixtures or drains in, above, or adjacent to rooms undergoing lead base paint stabilization;

(6) Interior windows that do not close completely;

(7) Missing or broken window panes;

(8) Absent, incomplete, or deteriorated caulking around sinks and tubs in the bathroom or kitchen; or

(9) Any other deterioration or damage to interior components that would compromise the effectiveness of these standards.

(j) The following substrate defects if they can cause lead exposure hazards to exist shall be repaired prior to lead base paint stabilization:

(1) Dry rotted or rusty structural, siding, window, door, or railing components;

(2) Wall and ceiling plaster that is unkeyed from the underlying laths;

(3) Loose siding or trim; or

(4) Any other substrate condition that would compromise the effectiveness of these standards.

(k) When implementing these standards, a property owner or manager shall comply with the following:

(1) For windows, the following measures shall be taken in the order listed:

(A) Window stops and the lower window sash shall be temporarily removed to expose surfaces as specified in subparagraph (1)(C).

(B) Repairs to windows shall be in compliance with RSA 130-A:15-b, I, (e).

(C) Measures for lead base paint stabilization shall be taken for the following surfaces of the window:

- (i) Window jambs;
- (ii) Interior and exterior upper and lower sashes;
- (iii) Window stops; and
- (iv) Affected trim.

(D) The exterior sill and window well shall be capped with vinyl, aluminum coil stock, sheet metal flashing, or other impervious material securely affixed to the sill with edges sealed and caulked.

(2) As an alternative to the measures specified in subparagraph (k)(1), friction and impact surfaces may be eliminated by permanently fastening window sashes shut, when not otherwise prohibited by any other building or fire codes or by any local ordinances.

(3) When these standards are implemented for doors, the following measures shall be taken in the order listed:

(A) Door stops shall either:

- (i) Be removed and replaced with new door stops;
- (ii) Be wrapped with vinyl or aluminum coil stock securely affixed to the door frame; or
- (iii) Have rubber bumpers securely affixed on the surface of the door stop to protect the door stop from impact by the door.

(B) After temporary removal of the door from its hinges, edges of the door shall be planed to eliminate friction points should any exist.

(C) Measures for lead base paint stabilization shall be taken for the door and door components.

(D) The door shall be rehung and checked to verify that all friction points have been eliminated.

(4) When these standards are implemented for stair systems, the following measures shall be taken in the order listed:

(A) Measures for lead base paint stabilization shall be taken for the friction and impact surfaces of the stair system.

(B) The stairs shall then be covered by securely affixing rubber tread guards or carpet that cover the entire width of the stairs between the stringer and balusters, after, as needed, priming and painting the stair risers.

(5) When these standards are implemented for baseboards, measures for lead base paint stabilization shall be taken in compliance with RSA 130-A:15-b, I(e).

(6) When these standards are implemented for outside wall corners, a corner bead shall be installed.

(7) When these standards are implemented for drawers and cabinets, the following measures shall be taken in the order listed:

- (A) Contents of the drawers and cabinets shall be removed.
- (B) Drawers shall be planed at friction surfaces, if painted.

(C) Measures for lead base paint stabilization shall be in compliance with RSA 130-A:15-b, I(e).

(D) Rubber or felt bumpers shall be installed to reduce impact.

(8) When these standards are implemented for painted porches, decks and interior floors, measures for lead base paint stabilization

shall be taken for all surfaces to make them reasonably smooth and cleanable, except that the paint or covering used shall be intended for use on flooring.

(9) Risk reduction standards for soil shall be implemented whenever the following conditions apply:

(A) Bare soil in a child's play area; or

(B) The following combinations of soil conditions exist:

(i) Except for active beds intended for ornamental plantings, the total surface of each bare soil area is greater than 1 square yard (9 square feet); and

(ii) The soil is located in one or more of the following areas:

(a) Drip line/foundation areas;

(b) Bare pathways;

(c) Pet sleeping areas;

(10) When conditions under subparagraph (9) apply, the owner shall;

(A) Seed the area with grass seed; or

(B) Cover the area with stone, crushed rock, gravel, bark mulch, wooden nuggets or artificial turf; or

(C) Plant ivies or other spreading plants, thorny or dense shrubbery, on the area; or

(D) Implement land use controls, such as but not limited to, fencing, decks, and moving play equipment from areas of bare soil.

II. Upon completion of the risk reduction activities set forth in RSA 130-A:15-b, I, the owner of an affected property shall pay to determine compliance with the standards by having the property inspected by a risk reduction inspector trained in accordance with this chapter. Written inspection reports prepared by the risk reduction inspector shall be given to the owner, and to the owner's insurance carrier upon their request.

III. On each successive apartment vacancy, the owner shall:

(a) Check the integrity of the work previously performed and rectify any discrepancy.

(b) Wash all interior horizontal dust gathering surfaces that might present a lead exposure hazard with a high phosphate detergent solution, rinse with clean water and, when dry, vacuum with an HEPA vacuum.

130-A:15-c Compliance Requirements; Liability Protection; Cost of Temporary Relocation; Abatement Orders.

I. On and after June 1, 2001, an owner of affected properties shall ensure that at least 25 percent of the owner's affected properties have satisfied the risk reduction standard specified in RSA 130-A:15-b, without regard to the number of affected properties in which there has been a change in occupancy.

II. On and after June 1, 2006, an owner of affected properties shall ensure that at least 50 percent of the owner's affected properties have satisfied the risk reduction standard specified in RSA 130-A:15-b, without regard to the number of affected properties in which there has been a change in occupancy.

III. On and after June 1, 2011, an owner of affected properties shall ensure that at least 75 percent of the owner's affected properties have satisfied the risk reduction standard specified in RSA 130-A:15-b, without regard to the number of affected properties in which there has been a change in occupancy.

IV. On and after June 1, 2016, an owner of affected properties shall ensure that 100 percent of the owner's affected properties have satisfied the risk reduction standard specified in RSA 130-A:15-b without regard to the number of affected properties in which there has been a change in occupancy.

V. The liability insurer of the owner may, upon request, obtain copies of the inspection reports as required under RSA 130-A:15-b, II.

VI. The liability protection under RSA 130-A:15-f, XII shall be available to any owner who is in compliance with RSA 130-A:15-b and paragraphs I-IV of this section, without regard to whether or not the specific affected property involved in an action has undergone the risk reduction standard established under RSA 130-A:15-b.

VII. The provisions of this section shall not apply if the owner proves that the noncompliance results from:

(1) A tenant's lack of cooperation with the owner's compliance efforts; or

(2) Legal action affecting access to the unit.

VIII. The owner of an affected property shall be responsible for the cost of any temporary relocation of the tenants of the affected property that is necessary to fulfill the requirements of this section.

IX.(a) Any owner who receives an order of abatement pursuant to RSA 130-A:7 shall immediately commence tenant relocation in accordance with RSA 130-A:8-a.

(b) If the owner confirms that the person at risk has been relocated until the dwelling or dwelling unit meets the conditions of RSA 130-A:15-b, the abatement order shall be held in abeyance until the time for acceptance or rejection of a qualified offer made in accordance with RSA 130-A:15-f.

(c) The order of abatement shall be rescinded if the qualified offer has been accepted, all persons at risk have been relocated, and prior to reoccupancy the dwelling or dwelling unit is in compliance with the risk reduction standards of RSA 130-A:15-b.

(d) All costs of relocation incurred by the owner under subparagraph (a) shall be reimbursed directly to the owner from the qualified offer.

130-A:15-d New Rental Agreements.

I. The owner of an affected property shall, as part of all new rental agreements, give a written request to all new tenants requiring them to inform the owner, in writing, of any significant chips from, peeling of, or damage to any painted surface.

II. The owner shall give a similar written request to all current tenants at the next tenancy renewal, but no later than one year from the effective date of this section.

III. Unless the painted surface is on a replacement window, door or surface that is free of lead base paint on its friction surfaces, or a painted surface has been documented as lead free by a licensed inspector, the owner shall make any necessary repairs within 30 days of notification.

IV. When an owner receives notification of case management pursuant to RSA 130-A:6-a and the person at risk resides in a dwelling or dwelling unit which is not in compliance with RSA 130-A:15-b, the owner shall have 60 days to bring the dwelling or dwelling unit into compliance.

V. The tenant shall, in a timely manner, in writing, inform the owner of any significant chips from, peeling of, or damage to any painted surface. The owner shall not be liable for any damages arising from the tenant's lack of notification.

VI. If the owner does not perform as required under this section, the owner will lose the protection of RSA 130-A:15-f.

130-A:15-e Repairs; Removal From Risks; Refusal of Tenant.

I.(a) Whenever the risk reduction standards per RSA 130-A:15-b are being implemented by an owner of an affected property who intends to make repairs or perform maintenance work that will disturb a lead base substance on interior surfaces of an affected property, the owner shall make reasonable efforts to insure that all persons who are not persons at risk are not present in the area where work is performed and the owner shall confirm that all persons at risk are removed from the affected property before the work is performed.

(b) A tenant shall allow access to an affected property, at reasonable times, to the owner to perform any work required under this subdivision.

(c) If a tenant must vacate an affected property for a period of 24 hours or more in order to allow an owner to perform work that will disturb the paint on interior surfaces, the owner shall pay the reasonable expenses that the tenant incurs directly related to the required relocation.

II.(a) If an owner has made reasonable efforts to cause the tenant to temporarily vacate an affected property in order to perform work that will disturb the paint on interior surfaces, and the tenant refuses to vacate the affected property, the owner shall not be liable for any damages arising from the tenant's refusal to vacate.

(b) If an owner has made reasonable efforts to gain access to an affected property in order to perform any work required under this subdivision, and the tenant refuses to allow access even after receiving reasonable advance notice of the need for access, the owner shall not be liable for any damages arising from the tenant's refusal to allow access.

130-A:15-f Qualified Offer.

I. In this section:

(a) "Action" includes a complaint, crossclaim, counterclaim, or cross-third-party complaint.

(b) "Offeror" means a person, including an insurer or other agent, who makes a qualified offer under this section.

II.(a) This section applies to all potential bases of liability for alleged injury or loss to a person caused by the ingestion of lead by a person at risk in an affected property.

(b) This section applies to an owner of an affected property who has, with respect to the affected property, complied with the applicable requirements of RSA 130-A:15-b and RSA 130-A:15-c.

(c) This section applies to an owner of an affected property who has, with respect to the affected property, brought the property into current compliance with the applicable requirements of RSA 130-A:15-b and RSA 130-A:15-c.

III. A person shall not bring an action against an owner of an affected property for damages arising from alleged injury or loss to a person at risk who has received notice of EBL or to a person who has any other level of blood lead, presumably caused by the ingestion of a lead base substance, unless the owner has been given:

(a) Written notice from any person of the elevated blood lead level of a person at risk; and

(b) An opportunity to make a qualified offer under this section.

IV. A person shall not bring action against an owner and shall not be able to receive a qualified offer if the owner was not given written notice of the EBL status within 6 months of the performance of the test.

V. A person who receives notice under this section is entitled to the results of any prior blood lead tests of the person at risk for the purpose of determining whether to make a qualified offer under this section. That person is entitled to the identification of all medical providers and an authorization to obtain those results.

VI.(a) An owner who receives the results of a blood lead test of a person at risk under this chapter shall not disclose those results to another person except:

(1) The insurer of the owner;

(2) A medical doctor or other professional with whom the owner consults; or

(3) An attorney of the owner or of any person specified in subparagraphs (a)(1) or (2).

(b) A person who received blood lead test results from an owner under subparagraph (a) shall not disclose those results to any person not specified in subparagraph (a).

VII. The person who notifies the owner under this section, the person at risk, or a parent with primary legal custody or legal guardians of a minor who is a person at risk, and the department in providing notice under RSA 130-A:6-a, or in issuing an order under RSA 130-A:6, I may request from the owner copies of inspection reports issued under RSA 130-A:15-b, II and such information as needed to confirm that the owner is in compliance with RSA 130-A:15-c and, if the dwelling or dwelling unit had received the risk reduction activities, that the unit was in compliance with RSA 130-A:15-b at the initiation of the tenancy.

VIII. If an order issued under RSA 130-A:6 or a notice issued under RSA 130-A:6-a is based on a test performed within 30 days after the person at risk begins residence in a dwelling or dwelling unit whose owner is in compliance with RSA 130-A:15-c, it shall be presumed that the ingestion of the lead-based substance did not occur at the dwelling or dwelling unit. The tenant shall give notice of the EBL to the owner of the previous residence.

IX.(a) A qualified offer may be made to a person at risk who resides in or regularly spends at least 10 hours a week in an affected property by:

(1) The insurer of the owner; or

(2) The owner, or agent of the owner, in accordance with the terms and conditions specified in any insurance contract; or

(3) The owner, or agent of the owner, if the owner elects to be self-insured.

(b) If a qualified offer is made under subparagraph (a) of this paragraph, it shall:

(1) Be made within 45 days after the offeror receives notice under this section.

(2) Include the provisions specified in paragraph XIII of this section.

(c) An offeror shall send notice of the qualified offer to the person at risk, or in the case of a minor, the parent with primary legal custody or legal guardian of the minor.

X. A person at risk, or a parent with primary legal custody or legal guardian of a minor who is a person at risk, may accept or reject a qualified offer within 45 days after receipt of the qualified offer unless the

parties agree to a longer or shorter period of time. An offer which is not accepted within 45 days, unless the parties agree to a different time limit following receipt, shall be deemed to have been rejected.

XI. Acceptance of a qualified offer by a person at risk, or by a parent, legal guardian, or other person authorized to respond on behalf of a person, discharges and releases all potential liability of the offeror and the offeror's insured and principal to the person at risk and to the parent or legal guardian of the person at risk for any alleged injuries or loss caused by the ingestion of lead by the person at risk in the affected property.

XII. An owner of an affected property is not liable for any alleged injuries or loss caused by ingestion of lead by a person at risk in the affected property, or a parent, legal guardian, or other person authorized to respond on behalf of a person at risk, who rejects a qualified offer made by the owner or the owner's insurer or agent if, during the period of the alleged ingestion of lead by the person at risk, the owner was in compliance with the applicable risk reduction standard and response standard under RSA 130-A:15-b and the risk reduction schedule under RSA 130-A:15-c.

XIII.(a) Whenever a qualified offer is made under this section, the qualified offer shall include payment for reasonable expenses and costs up to the amount specified in paragraph XIV for:

(1) The relocation of the household of the person at risk to lead-safe housing of comparable size and quality. Such relocation may provide for:

(A) The permanent relocation of the household of the affected person at risk to lead-safe housing, including relocation expenses, a rent subsidy, and incidental expenses; or

(B) If the owner elects to abate the lead base hazard, the temporary relocation of the household of the affected person at risk to lead-safe housing while necessary lead hazard reduction treatments are being performed in the affected property to make the affected property lead-safe; and

(2) Unreimbursed medical evaluations and medically necessary treatments for the affected person at risk as determined by their treating physician that is necessary to mitigate the effects of lead poisoning, and, in the case of a child, until the child reaches the age of 12 years. As an initial payment from the qualified offer for costs already incurred, the owner or agent shall pay \$500 to the guardian of the person at risk within 10 days of acceptance of the qualified offer for payment of undocumentable incidental medical expenses.

(b) An offeror is required to pay reasonable expenses for the medical evaluations and medically necessary treatments under subparagraph XIII(a)(2) if coverage for these treatments is not otherwise provided by public or private health insurance.

(c) A qualified offer shall include a certification by the owner of the affected property, under the penalties of perjury, that the owner has complied with the applicable provisions of this subdivision in a manner that qualifies the owner to make a qualified offer under this section.

XIV.(a) The amounts payable under a qualified offer made under this section are subject to the following maximum for any single person at risk, including the parent or legal guardian of that person at risk:

(1) \$7,500 for lead levels of 20 to 39.9 micrograms per deciliter and \$15,000 for lead levels of 40 micrograms per deciliter or over for all medical evaluations and medically necessary treatments as provided and limited in paragraph XIII, except that for medical evaluations and medi-

cally necessary treatments covered by private health insurance, such amounts shall be for otherwise unreimbursed medical evaluations and medically necessary treatments; and

(2)(A) \$1,500 for relocation expenses; and

(B) \$7,500 for rent subsidies, up to 50 percent of the existing rent each month for the affected property, for the period until the person at risk reaches the age of 6 years.

(b) All payments under a qualified offer specified under subparagraph (a) of this paragraph shall be paid to the provider of the service.

130-A:15-g Liability Insurance Requirements for Affected Property.

I. In this section:

(a) "Authorized insurer" means an insurer which:

(1) Holds a certificate of authority in this state;

(2) Issues or issues for delivery in this state third party bodily injury liability insurance under:

(A) Homeowners' coverage;

(B) Owners, landlords, and tenants coverage; or

(C) Other premises liability coverage; and

(3) Is subject to regulation by the New Hampshire insurance department.

(b) "Department" means the New Hampshire insurance department.

II. Notwithstanding paragraph VI of this section, upon inception or renewal of a policy on or after the effective date of this subdivision, an insurer may provide for a lead hazard exclusion with respect to a policy of insurance covering an affected property; however, such lead hazard exclusion shall be waived with respect to an affected property which is covered under the policy to the extent of a qualified offer made or to be made under RSA 130-A:15-f if:

(a) The owner of the affected property is in current compliance with the schedule of or provisions of the risk reduction standards as specified in RSA 130-A:15-b or RSA 130-A:15-c.

(b) The insured provides to the authorized insurer a copy of the reports of designated inspectors documenting the dwelling units of the owner's affected property that comply with the standards set forth in RSA 130-A:15-b.

(c) The insured otherwise meets the insurer's underwriting standards, which may be more restrictive than the risk standards specified in RSA 130-A:15-b and the schedule set forth in RSA 130-A:15-c.

III. The lead hazard exclusion authorized in the preceding paragraph shall be available to an authorized insurer only if the policy of insurance provides coverage of an affected property for the amount of a qualified offer made or to be made under RSA 130-A:15-f. Such exclusion may exclude coverage for lead hazard with respect to an affected property in excess of the amount of such qualified offer.

IV. This section applies only to coverage for lead hazard and does not affect coverage for property damage or any other form of coverage provided in a policy or contract of insurance.

V. In lieu of waiver of a lead hazard exclusion under paragraph II of this section, and with the proper approval of the department, an authorized insurer may offer an alternative form of coverage for a qualified offer made with respect to an affected property.

VI. The department shall review policy forms and endorsements to implement and enforce compliance with the provisions of this subdivision.

15 New Subdivision Heading. Amend RSA 130-A by inserting after section 16 the following new subdivision heading:

Penalties, Injunctions, and Civil Suits

16 Nonseverability. It is the intent of the legislature that the provisions of sections 6 through 15 of this act shall be considered a unit and such provisions shall be inseparable. If any such provision of this act is declared unconstitutional, then all of such provisions shall be invalid.

17 Effective Date.

I. Sections 3 and 5 of this act shall take effect as provided in section 4 of this act.

II. Sections 6 through 16 of this act shall take effect January 1, 1997.

III. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows extended detoxification of pregnant and postpartum heroin addicts using the controlled drug methadone. Under this bill, such extended detoxification shall terminate in 5 years.

This bill establishes lead paint risk reduction procedures which may be carried out by a property owner. Such owner may then qualify for certain insurance coverage. This portion of the bill resulted from a study committee established under 1995, 306.

SENATOR WHEELER: Hello again, Mr. President. HB 1576 creates an act relative to extended detoxification of pregnant and postpartum heroin addicts utilizing the controlled drug methadone for women who are heroin addicts. The Senate Public Institutions, Health and Human Services Committee added a couple of protections into the bill. They can only stay on methadone for three months so that it doesn't become a permanent methadone maintenance program, and that the methadone must be taken in the presence of a physician so to eliminate the possibility of the methadone being sold on the street because methadone is an opine and also very addictive and does have a street value. Also regarding children, in the amendment is the Senate passed lead paint bill. The Senate lead paint bill has \$100 million worth of work in it. It was voted out of here as a Senate priority, and it is in here to defend the Senate's position on lead paint. I urge your passage.

SENATOR LARSEN: I just heard a good comment. I think that it is time to get the lead out of this bill. I have real questions about whether this amendment is germane. As you may recall, we do have a Senate Rule that says that no amendment to any bill shall be proposed or allowed at any time by any source, including a Committee of Conference, except it be germane. We were dealing with the methadone bill that levels out the methadone levels for people, pregnant heroin addicted women to protect the fetus' of those women from the huge fluctuations of heroin addiction. Methadone saves the babies' lives by leveling out that addictive substance and gets the baby to a point when it is born that it can be treated and withdrawn gradually. It is a good bill. The methadone bill is needed. We have doctors and nurses from all over the state urging us to allow this to happen so that we can save these babies from the terrible consequences of the heroin addiction. To tack on lead paint, to a methadone bill, makes no sense unless you are desperate to get this thing passed. It violates rule 21 of the Senate Rules. It makes no sense to violate our own rules. If we don't live by our own rules, what are we doing here? If we don't honor our own procedures, what are we doing

here? The lead paint bill could be good, but we now know after watching this bill, hearing about it from enough people, that the lead paint bill has some really serious concerns. The concerns are that more children will be lead paint exposed than if we do nothing with the lead paint issue this year. The concerns are that we sell . . . we institute a cap on liability that raises serious constitutional questions. It is wrong to tack this lead paint bill, to bring it back after it has stopped in the House. It is wrong to tack it onto the methadone bill which we need to pass this year. I urge you to consider what is happening, to consider the process. I urge you to look at your own rules. This is not germane. Pull this thing off and let us pass the methadone bill.

Recess.

Senator Currier in the Chair.

SENATOR WHEELER: Senator Larsen, how did you vote on the lead paint bill when it was in the Senate Public Institutions, Health and Human Services Committee?

SENATOR LARSEN: Senator, on the advice of the department, I voted yes, because I heard from them that it was adequate. I later heard that they were informed basically to gag themselves.

SENATOR WHEELER: And Senator Larsen, didn't the Department of Health and Human Services also say that this bill would protect children from lead poisoning in their opinion?

SENATOR LARSEN: I understood that the department was required to answer that to me. I later heard great concerns from those in the field that the advice that I got was under constraint and that if it had been given freely, that I would have gotten another response.

SENATOR WHEELER: Okay, and the last question, Senator Larsen, isn't \$100 million of private sector money to clean up lead paint in New Hampshire, at stake if this bill does not pass?

SENATOR LARSEN: I very much want to see a method by which we can clean up lead paint. I know that when I go out in the district, as all of us know, that there are landlords who are struggling with the need to provide affordable housing and remove the lead from their units to allow for families to occupy affordable apartment units. What I am understanding, is that this proposal goes too far. It gives away too much to the landlords and doesn't protect the children enough. I cannot support it any longer now that I know more of the details on it. I will not be supporting it.

SENATOR WHEELER: So the answer is yes, \$100 million is at stake?

SENATOR LARSEN: What is at stake is the health of our children, and the issue is, are we going to allow this lead paint to be disturbed to the extent that we are threatening the health and welfare of the children of this state. I am willing to work on a lead paint issue, but this is not the right one this year.

SENATOR WHEELER: Thank you, Senator.

SENATOR J. KING: I rise to ask you to not support this bill. The methadone bill and the use of methadone to help pregnant women and children is an ideal bill and we don't want anything on there that is going to change that bill. This other bill, from what I have been hearing, has already been killed in the House. Does that mean that they are going to accept it now because it has this bill with it? I doubt it very much. As far as going

against lead bills, there are a few of us here that originated the lead bill practically, six or eight years ago, and we worked very hard on them, so we are concerned about the lead bill as well, but right now, we are also concerned about the one that deals with the methadone. That should pass and it shouldn't have any strings attached to it, hopefully, it will pass, and hopefully, somehow or another, you will deduct that amendment from it.

SENATOR PIGNATELLI: I rise to object to the process that is going on here. It is the same process that went on for HB 1577 that I spoke about earlier. I am going to get up and talk about it every time that this comes up, because as I told you before, this is not the way that we want to make laws in our state. We have heard a speech this morning that said that the House killed this bill. Well I am here to tell you that the House didn't kill this bill, they sent it to study. They sent it to study to address some of the concerns that Senator Larsen talked about and they will be coming out with a corrected bill. So I object to the process. This is not Washington, D.C., this is Concord, New Hampshire, and we don't make our laws this way, nor should we. Thank you.

SENATOR RUBENS: I rise in support of the amended bill. The bill that we have before us, including the amendment reflects years of effort on the part of the legislature and the version that we have before us reflects several months of study to create the solution to the lead paint problem that we have now. It has been said by some that doing nothing, meaning by not passing this bill, is good for children in some way. I assert just the opposite. To continue to do nothing for another year or several more years while we debate how to solve the problem is not good for children. So it is the appropriate thing to do because we now have something on the table that the parties can generally agree to. If there are any problems to be worked on in the bill, the constructive thing to do is to pass this bill and go back to the House and get into a Committee of Conference and fix it out, but not wait another year or two and continue to leave children exposed to lead and do nothing about the problem.

Amendment adopted.

Referred to the Finance Committee (Rule #24).

Recess.

Senator Delahunty in the Chair.

5925

Enrolled Bill Amendment to HB 1392

Amend RSA 374-F:3, VI as inserted by section 2 of the bill by replacing line 10 with the following:

the electric utility industry's share of commission expenses pursuant to RSA

Senator Currier moved adoption.

Adopted.

5908

Enrolled Bill Amendment to HB 1164

Amend the title of the bill by replacing it with the following:

AN ACT

making it illegal to train dogs to hunt bobcat and relative to the issuance of training permits and rulemaking by the executive director.

Senator Currier moved adoption.

Adopted.

RECONSIDERATION

Senator Danaïs having voted with the prevailing side, moved reconsideration on **SB 625**, an act relative to insurance fraud, whereby we concurred with the House amendment.

Adopted.

SB 625, an act relative to insurance fraud.

Senator Danaïs moved to non concur and requests a Committee of Conference.

Adopted.

ANNOUNCEMENTS

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1100, relative to the cutting of timber.

HB 1144, relative to criminal threatening.

HB 1132, reinstating the corporate charters of Polar Graphics, Inc. and Capitol Alarm Systems, Inc. and amending the charter of Saint-Gaudens Memorial.

HB 1138, requesting the judicial council to study issues regarding jury duty.

HB 1139, relative to the powers of the town of Sunapee concerning governance of the Sunapee water and sewer system.

HB 1180, relative to the rulemaking authority of the commissioner of transportation relating to the turnpike system and relative to the duration of state registration certificates.

HB 1212, relative to the powers of trustees under the Uniform Trustees' Powers Act.

HB 1228, requiring the executive director of the department of fish and game to provide copies of fish and game statutes, if available as a single publication from a commercial publisher, without charge only upon request of the members of the House wildlife and marine resources committee and the senate fish and game/recreation committee.

HB 1315, relative to the use of certain products containing phosphates.

HB 1322, relative to the adoption of the New Hampshire hospital master plan of 1994.

HB 1368, requiring permits for dentists who administer general anesthesia, deep sedation, and conscious sedation, and giving the board of dental examiners related rulemaking authority regarding the permits and fees.

HB 1525, relative to damages in suits brought by administrators of an estate.

HB 1548, relative to county attorneys.

HB 1586, relative to minimum bonding requirements for postsecondary institutions, the state share of default costs on certain federal student loans, and nursing service required for cancellation of nursing scholarship loan obligations.

HB 1601, extending the reporting date for the pet overpopulation committee.

HB 1632, authorizing degree granting authority to the Manchester Institute of Arts and Sciences.

HB 1634, relative to licenses and license fees of electricians.

SB 501, repealing a requirement for keeping records of sales of pistols and revolvers and repealing provisions relative to the purchase of shotguns and rifles in contiguous states and by nonresidents.

SB 513, establishing a study committee on bonding or other alternatives to protect client trust funds held by attorneys.

SB 537, relative to state contracts for consultants.

SB 541, exempting the healthy kids corporation from the insurance premium tax.

SB 549, relative to the children's trust fund.

SB 550, allowing a certain town employee to buy back time in the New Hampshire retirement system.

SB 664, relative to remedies against licensing authorities for failure to comply with state laws regarding licenses to carry pistols and revolvers.

HJR 24, encouraging the Department of the Navy to name a vessel the U.S.S New Hampshire.

HJR 22, urging the New Hampshire congressional delegation to review the significant economic impact of the implementation of the Silvio O. Conte National Fish and Wildlife Refuge.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 477, regulating motor vehicle leasing.

HB 1453, relative to divisions and employees of the liquor commission.

HB 1151, relative to penalties for persons convicted of class B misdemeanors and violations and relative to parole revocation hearings.

HB 1163, requiring archery license applicants to complete a mandatory bow hunter education course.

HB 1434, establishing a committee to study the issues surrounding the definition of "facility" for the purposes of eligibility for property tax exemptions for water and air pollution control facilities.

HB 1522, establishing a committee to review the medicaid rate setting methodology.

HB 1558, establishing a study committee on taxation of real estate which does not receive municipal services.

Senator Currier moved adoption.

Adopted.

RESOLUTION

Senator Barnes moved that the Rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

RESOLUTION

Senator Barnes moved that the Senate be in recess until Thursday, May 9, 1996 at 10:00 a.m. for the sole purpose of receiving House messages and Enrolled Bill reports and Enrolled Bill amendments.

Adopted.

LATE SESSION**Third Reading and Final Passage**

HB 151 FN, an act establishing a special license plate program, including related fees.

HB 530-FN, an act transferring the functions and duties of the director of state ski operations.

HB 1025-FN-LOCAL, relative to a 10-year transportation plan, relative to the Derry local exit on I-93, and extending the lapse dates for certain capital appropriations to the department of transportation.

HB 1162-FN, an act relative to making a supplemental appropriation for the veterinary diagnostic laboratory in the agriculture experiment station at the university of New Hampshire.

HB 1171-FN, an act relative to fees for number plates.

HB 1193-FN-L, an act relative to department of revenue administration reporting requirements relative to a yield tax on timber, establishing an exception from RSA 541-A for requirements on certain tax filing forms, and removing a budget footnote.

HB 1229-FN-A, an act allowing owners of privately owned airports to receive partial state reimbursement grants for local property taxes paid on certain areas of such airports and making an appropriation therefor.

HB 1271-FN, an act relative to exposure to infectious disease.

HB 1399, an act establishing 2 new positions in the department of environmental services to implement the sludge permit system; repealing the sewage disposal system fund; relative to sewage disposal system recording fees; and making appropriations from the balance contained in the sewage disposal system fund.

HB 1555-FN-A, an act authorizing the commissioner of the department of environmental services to impose administrative fines for certain environmental violations and continually appropriating certain fine revenues.

HB 1575, an act extending the study committee considering the adoption of a constitutional amendment allowing a yield tax on sand, gravel, and similar materials and relative to taxation of sand, gravel, and similar materials for the tax year ending March 31, 1998.

HB 1590-FN, an act relative to the workers' compensation administration fund.

HB 1603-FN, an act relative to the budget for the animal population control program.

HB 1612-FN-L, an act requiring the state to transfer ownership of land currently leased from the state by Rockingham county for use as a parking lot for the Rockingham county courthouse to Rockingham county.

HB 1619-A, an act authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River, authorizing the Dept. of Health and Human Services to reroof four buildings, extending the lapse date on the Plaistow district court design, relative to refunding bonds and credit arrangements for state notes, and relative to disaster assistance and making an appropriation therefor.

In Recess.

Out of Recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1105, relative to hunting while intoxicated and implied consent to administer alcohol or controlled drug tests, and permitting evidence of the refusal of consent in certain legal proceedings.

HB 1113, relative to the order of names on state primary election ballots and to political advertising and relative to a contingent nullification.

HB 1270, allowing school administrative units to establish advisory budget or finance committees under the municipal budget law.

HB 1302, establishing a committee to study methods of improving telecommunication services to the North Country and other rural areas.

HB 1400, relative to liquor licensing requirements for veterans' clubs and social clubs and relative to liquor licenses for off-site catering services.

HB 1429, establishing a study committee on interstate banking and branching.

HB 1472, establishing a committee to study ways to enhance the postsecondary education system so as to attract European businesses.

HB 1530, authorizing the executive director of the department of fish and game to regulate the taking of deer and moose and permitting the director to adopt rules relative to a registration agent's fees.

Senator Currier moved adoption.

Adopted.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Thursday, May 9, 1996 at 10:00 a.m.

Adopted.

Adjournment.

May 9, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by David P. Jones, the Senate Guest Chaplain.

In politics as in life, timing is everything. Let us pray:

Teach us, O Lord, to know - when to stand and speak and when to sit and listen. When to follow the process and when to change to something else. When to fill our tanks and when to fix our roads. When to help our children and when to let them help themselves. When to keep on running and when to leave our position and make room for another. For it is in listening that we know what to say. It is in saving that we know how to spend and it is in letting go that we know when and where and how to run in the right direction. Stay close, O Lord, for on our own we could be dangerous - and that would be too bad. Amen

Senator Blaisdell led the Pledge of Allegiance.

SENATOR BLAISDELL (Rule #44): As you know, Reverend Fischer passed away a couple of days ago as Reverend Jones spoke to us about. We all enjoyed him so much. He is going to be buried tomorrow. I think that the Senate enjoyed his wife's hats, they were beautiful. He was a beautiful man. I would just hope that this Senate would take one minute in reverence to the Reverend Fischer.

Thank you very much.

INTRODUCTION OF GUESTS TAKEN OFF THE TABLE

Senator Gordon moved to have **HB 647-FN-A**, an act relative to transfers from the highway surplus account and relative to tolls charged on the Cheshire Bridge, taken off the table.

Adopted.

HB 647-FN-A, an act relative to transfers from the highway surplus account and relative to tolls charged on the Cheshire Bridge.

SENATOR GORDON: HB 647 makes an appropriation from the \$30 million Highway Fund Surplus for equipment and repairs on the roads and the highways of the state. At the beginning of the year, there was \$30 million in the Highway Surplus Fund. This money became available because the department has put efficiencies into their budget operations and because the revenues have been coming in a little bit higher than was expected. The way that the \$30 million is anticipated to . . . the actual appropriation is not for the amount of \$30 million, in fact, I believe since the beginning of the year, that surplus has been somewhat diminished, but the appropriation would be for the total amount of \$15 million. The way that would be spent, would be \$10.5 million which would be on highway betterment. The highway betterment would be for paving and improvements to the many highways and roads throughout the state, state roads throughout the state. Now this is extremely important and the reason that it is extremely important this particular year, is that probably this was the worst winter in the state's history. We had a very high water table at the end of last year when the frost came in the fall. There was freezing, as a result, the roads cracked. I don't have to remind

anyone what the frost heaves were like in February and March. Many of the roads in the state are in terrible condition. Many of you read in the newspaper about the ten worst roads in the state this last week. We all know that the roads are important to all of us in this state. They are important to us because of economic development, to attract people because we are not centrally located as far as mass markets are concerned, and people who are going to do business in this state have to access the state and the state's businesses on our roads and through transportation. They are extremely important to us all over this state, but especially to the tourism business. We need to make sure that when tourists come here that they have a good experience and they don't have an experience of hitting pot holes or ruining their car on New Hampshire roads. We have had a good reputation and we need to maintain it. Ten point five million dollars would be expended directly on improving the roads that are necessary and need improvements to the roads of this state. In addition to that, \$2 million will be used to upgrade the so-called orange fleet. We have put off equipment acquisitions for some time in the Department of Transportation. We all know when it is snowing at night and we hear that plow go by the house at three in the morning, how important it is that we be able to get out of our yards and go to work. Two million dollars would be used to upgrade equipment and supplies for the Department of Transportation. Another \$2 million will be used on a Municipal Bridge Fund. This is extremely important, and this is to address the issue of red-line bridges. It will be used specifically on red-line bridges. Those \$2 million for bridge work is necessary and the local communities are depending on us in contributing our share. It is necessary work and it needs to be done. The remaining \$.5 million will go towards replacing outdated computer equipment. It is important that our Department of Transportation have the ability to respond rapidly, and to deal with the circumstances that are dealt to them by the weather. It is also necessary that they have an up-to-date computer system for the Department of Transportation. The total expenditure appropriated is \$15 million. It is necessary. I might add that the \$15 million in our state, these monies were raised through the sale of motor vehicle fuel and license and registration fees. In the state of New Hampshire, our forefathers had the good sense to create a dedicated fund; and in fact, they put that in our constitution so that article 6-a of the New Hampshire Constitution says, "that those fees shall be appropriated and used exclusively for the construction, reconstruction and maintenance of public highways within this state." There were two amendments added onto this. One is having to do with the Cheshire bridge. Right now, the toll money that was collected from the Cheshire bridge is used to pay off the bonds. But there is no provision that the interest money could be used to pay off the bonds. What the first amendment does, is to allow us to use the interest money to pay off the bonds and this will allow us to pay off the bond on that bridge, approximately one to one-and-a-half years earlier than it would be paid off otherwise. It is a very important amendment. The second amendment that was added in the Capital Budget Committee in the Senate, has to do with bonding authority in the town of Bedford. This is a revenue neutral bill, provisional amendment, which just gives the town of Bedford the authority to bond pursuant to the Bedford Town Charter. With that, the only other thing that I would tell you is, that this bill was voted unanimously out of the Senate Transportation Committee and unanimously

out of the Senate Capital Budget Committee. I recommend its approval and the approval of the amendment as well as the approval of the whole bill. Thank you, Mr. President.

Question is on the committee amendment.

Amendment adopted.

Senator Currier offered a floor amendment.

5954L

Floor Amendment to HB 647-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT
suspending the gasoline tax.

Amend the bill by replacing all after the enacting clause with the following:

1 Gasoline Tax Suspension. Notwithstanding any other provision of law, including but not limited to RSA 260:32 and RSA 260:52, I, the \$.18 per gallon tax on motor fuel and diesel fuel shall be suspended from May 26, 1996, through July 31, 1996.

2 Maintaining Municipal Share. Notwithstanding any other provision of law, funds shall be appropriated and transferred from the highway surplus account sufficient to provide the cities and towns of the state the total share of the tax on motor fuel and diesel fuel they would have received if section 1 of this act had not taken effect.

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill suspends the \$.18 per gallon tax on motor fuel and diesel fuel from May 26, 1996, through July 31, 1996.

The bill also guarantees that cities and towns will receive their full share of the tax on motor fuel and diesel fuel as if the suspension had not occurred.

SENATOR CURRIER: Several days ago I received a call from Governor Merrill asking or requesting of me, to sponsor legislation regarding his balancing budget proposal and other items. As you all know, the legislative branch is the only one that can introduce legislation, so as a courtesy to the governor, I said, "Yes, in fact, I would be happy to take on this responsibility and bring his proposal to the Senate floor," for what I thought was going to be some vigorous debate, but I didn't realize that it was going to be this vigorous. The bill that is before you as an amendment, substitutes for HB 647, a gas tax reduction plan that holds harmless to cities and towns of the state of New Hampshire, from the 12 percent that they share in the gas tax that is distributed to them annually. That is section II of the bill. This plan temporarily reduces the gas tax during the summer tourist season from Memorial Day through the end of July. At a time when gas prices would traditionally rise, New Hampshire's gas prices would drop dramatically, making New Hampshire, again, the tax haven of the country. The Highway Trust Fund, which is constitutionally a dedicated fund, will have \$30 million surplus at the end of the biennium. We do not need to recoup this money through increased revenues in other taxes, this is a surplus. What we are deciding to do today, is who will spend the surplus. The governor would like to have the taxpayers spend the surplus. Some point to pot holes, but out of the 4,117 miles that are in phase two of the resurfacing program, which

is indicated on this map, which I noticed that a lot of you had today, HB 647 only totally re-paves 5.7 of those miles. Fifty percent of those roads, 120 miles addresses . . . and will only get 3/8" of new pavement. Another 100 miles would only get leveled, which means that they shim it. Will this really make a difference to New Hampshire drivers? That is the question. "I am voting today to give the surplus to the people of New Hampshire and let them spend it as they see fit. I want to give the money to working moms who get up at dawn and drive the kids to school or day care and then drive an hour to work. I want to give the money to small businesses like home builders and landscapers or the grocery store owners who leave at four a.m. every morning to go to Boston to pick up produce. I want to give the money to family vacationers who spend summer on the lakes. I want to give the money to small New Hampshire gas station owners who will have a competitive advantage over the businesses in other states." This bill is before you as an amendment, as I indicated, as a substitution to a spending bill that is currently before us. Thank you, Mr. President.

SENATOR COLANTUONO: I want to state for the record, my position on this whole issue. I believe that we should be passing HB 647 and some form of a gas tax reduction. I think that an idea of a gas tax reduction at this time is sound, in response to both, the fact that the federal government has continued that extra 4.3 percent levy that the administration put on back in 1993 and because of rising gasoline prices this year. This is not a new idea. Several years ago after the federal government increased the 4.3 cents tax, some of us talked about reducing the New Hampshire tax by a like amount so that our citizens wouldn't have to pay any net increase and it was determined at that time, that the Highway Fund could not take such a decrease. We have built up a surplus and I just spoke to Charlie Connor our LBA person, and he told me that at the end of the biennium, we will have an \$8 million surplus in the Highway Fund even after passing HB 647, so I believe that we can take some of that money and put the money back into the pockets of our citizens. If we do that, it will help the entire economy. Such a move, a temporary suspension or decrease in the tax will attract shoppers, visitors and tourists, especially in our border towns. I think that is very important for the reason that Senator Currier said and I would like to see something like that go forward. Thank you.

SENATOR STAWASZ: The map that Senator Currier referred to, I want to call again to your attention, because I think that it was referred to, in a press release the other day as "a Christmas Tree." It paves an additional 234 miles of New Hampshire roads for those everyday people that might save a couple of bucks a tank for a couple of months. I think that if you ask them if they would rather have an additional 234 miles of road paved, which almost doubles the amount of paving that was going to be done, I think that the smart thing to do is to pave the roads or when the tourists come here, they are going to remember bad roads. That would have a very different long-term impact.

SENATOR LOVEJOY: I rise to speak in favor of the proposal. I feel that I should express that I would much rather see a gas tax decrease spread over a 12 month period so that it would truly benefit all of our citizens all year long. It seems, had this proposal come sooner, we would have time, perhaps, to look at the effects of a 12 month decrease and its effects on our consumers here in the state. I want you to know, Mr. President, and members of the Senate, that I had several calls last night, both

from businesses in my district and primarily from consumers. They were all expressing their desire that this gas tax decrease is accomplished by the Senate. I will be voting in favor of this gas tax decrease. I would much rather have looked at a decrease that would have affected the whole 12 month period.

SENATOR BLAISDELL: Senator Lovejoy, the 18 cents that we are talking about, is there any guarantee that the fuel dealers in your area are going to give that 18 cents off or are they going to keep it?

SENATOR LOVEJOY: Well, I guess that the guarantee, Senator Blaisdell, would be what the public demands them to do. It is no secret that the eighteen-and-half cents is going to be cut, and if the fuel dealers don't comply with that, I think that probably you will see that the buying public will flood to those people that do, and that is the way that it should be.

SENATOR BLAISDELL: Spoken as a true congressman.

SENATOR KEOUGH: Mr. President, I am going to vote against this amendment and I urge my colleagues to join me in doing that, and to join me in protecting the use of state highway funds. As Senator Gordon pointed out, I think very appropriately, we have a good system in New Hampshire. We have a good system in New Hampshire because our fore fathers thought it through, and they recognized the importance of a transportation infrastructure, and the importance of identifying a funding source, an ongoing funding source, that would fuel that transportation infrastructure. Our highway funds should be used to maintain roads and bridges. Our highway funds should not be used for social programs. They should not be used as part of a deficit elimination program. They should not be used as part of some kind of general economic stimulus package, especially at a time where all that we hear, and I believe that we accurately hear, that New Hampshire's economy is strong. Our unemployment is at an all-time low, our tourism officials as quoted in today's paper as saying that bookings are up and they are looking for a very strong tourist season. This proposal makes no sense and I urge you to join me in voting against it.

Floor amendment failed.

Ordered to third reading.

Senators Colantuono, Lovejoy and Wheeler in favor of the floor amendment on HB 647-FN-A.

Senator Pignatelli is excused.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill sent down from the Senate:

SB 518, relative to the industrial center and the financial liability of the state for a company's default on matching fund obligations, authorizing the assessment of fees on certain projects, and the disposition of equipment purchased with state funds.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 1222, establishing a council on applied technology and innovation.

HB 1333-FN-L, relative to public assistance for households containing persons with disabilities.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 1220-FN-L, providing that the state shall apply for and utilize monies from the Goals 2000 - Educate America Act.

HB 1590-FN, relative to the workers' compensation administration fund.

HB 1603-FN, relative to the budget for the animal population control program.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 548-FN, relative to accidental death benefits for group I and group II members in the New Hampshire retirement system.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 548-FN, relative to accidental death benefits for group I and group II members in the New Hampshire retirement system.

Senator Danais moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 597-FN, relative to disability retirement benefits.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 597-FN, relative to disability retirement benefits.

Senator Danais moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 635-FN, relative to cost of living adjustments for retired firefighters.

SENATE NON CONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 635-FN, relative to cost of living adjustments for retired firefighters.

Senator Danais moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Danais, Russman, J. King.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 560, relative to utilization review programs.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Beverly Gage
Sandra Dowd
Richard Hill
Toni Crosby

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 502, relative to planning board membership and terms.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 502, relative to planning board membership and terms.

Senator Rodeschin moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 570, relative to the transportation of dogs in motor vehicles.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 570, relative to the transportation of dogs in motor vehicles.

Senator Gordon moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 571-L, relative to speech-language pathologists in the schools.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 571-L, relative to speech-language pathologists in the schools.

Senator Lovejoy moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 574, establishing a committee to study issues relating to educationally disadvantaged children who are placed at a county correctional facility.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 574, establishing a committee to study issues relating to educationally disadvantaged children who are placed at a county correctional facility.

Senator Lovejoy moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 588, relative to tenant eviction proceedings.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 588, relative to tenant eviction proceedings.

Senator Podles moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 598, providing that special education state aid follows the pupil.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 598, providing that special education state aid follows the pupil.

Senator Lovejoy moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 613, proclaiming December 7 of each year as National Pearl Harbor Remembrance Day.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 613, proclaiming December 7 of each year as National Pearl Harbor Remembrance Day.

Senator Rubens moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 667, naming the new Coos county courthouse the John D. Morton, Sr. courthouse.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 667, naming the new Coos county courthouse the John D. Morton, Sr. courthouse.

Senator Rubens moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 547-FN-A, requiring the department of safety services, division of safety services, to publish the New Hampshire boaters guide and making an appropriation therefor.

**SENATE NONCONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 547-FN-A, requiring the department of safety services, division of safety services, to publish the New Hampshire boaters guide and making an appropriation therefor.

Senator Gordon moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Fraser, Barnes, Cohen.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 599, providing that school nurses shall be authorized to possess and administer certain drugs for disease prevention and emergency treatment, setting forth the duties of school nurses in the control and prevention of communicable disease, and requiring an education and monitoring component for regulating medication administration in a hospice house.

**SENATE NONCONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 599, providing that school nurses shall be authorized to possess and administer certain drugs for disease prevention and emergency treatment, setting forth the duties of school nurses in the control and preven-

tion of communicable disease, and requiring an education and monitoring component for regulating medication administration in a hospice house.

Senator Lovejoy moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Lovejoy, Stawasz, Larsen.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 615, relative to property left behind by tenants and relative to damage deposits for pets.

**SENATE NONCONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 615, relative to property left behind by tenants and relative to damage deposits for pets.

Senator Rubens moved to non concur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Stawasz, Roberge, Larsen.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 633-FN-A, relative to victim restitution and compensation.

**SENATE NONCONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 633-FN-A, relative to victim restitution and compensation.

Senator Podles moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Rubens, Pignatelli.

CONFEREES: Senator Rubens is Chairman.

Senator Wheeler replaces Senator Podles.

Senator Cohen replaces Senator Pignatelli.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 656-FN, expanding drug-free school zones to include Head Start facilities.

**SENATE NONCONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 656-FN, expanding drug-free school zones to include Head Start facilities.

Senator Lovejoy moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Lovejoy, Gordon, J. King.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 610, relative to municipal water, gas and electric utilities.

**SENATE NONCONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 610, relative to municipal water, gas and electric utilities.

Senator Rodeschin moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Rodeschin, Keough, Cohen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 281, relative to admission requirements for the veterans' home and changing the composition of the board of managers.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Dennis Fields
John Flanders
David Welch
Richard Soucy

SENATE ACCEDES TO HOUSE REQUEST

HB 281, relative to admission requirements for the veterans' home and changing the composition of the board of managers.

Senator Rodeschin moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Rodeschin, Stawasz, Larsen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1110-FN, establishing a study committee relative to electronic information in state government.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Mert Dyer
	Sylvia Holley
	Jon Beaulieu
	Robert Asselin

SENATE ACCEDES TO HOUSE REQUEST

HB 1110-FN, establishing a study committee relative to electronic information in state government.

Senator Rodeschin moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Rodeschin, Stawasz, Larsen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1156, relative to aircraft landings.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	David Richards
	George Katsakiores
	Mark Krochmal
	Roger Berube

SENATE ACCEDES TO HOUSE REQUEST

HB 1156, relative to aircraft landings.

Senator Gordon moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Gordon, Stawasz, Cohen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1285, prohibiting sobriety check points.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Everett Weare
	Donald Gorman
	Kathy Rogers
	Vivian Dunham

SENATE ACCEDES TO HOUSE REQUEST

HB 1285, prohibiting sobriety check points.

Senator Gordon moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Gordon, Russman, Cohen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1300, relative to the enforcement of zoning regulations.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Betsy Patten
	Tom Rice
	Robert Brundige
	Paul McGuirk

SENATE ACCEDES TO HOUSE REQUEST

HB 1300, relative to the enforcement of zoning regulations.

Senator Johnson moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Johnson, Pignatelli, Gordon.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1436, relative to pecuniary benefits of real estate transactions and loans of directors and officers of charitable trusts and establishing a committee to study the laws relative to charitable trusts.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: John Hunt
 Warren Henderson
 Richard Krueger
 Martha Fuller Clark

SENATE ACCEDES TO HOUSE REQUEST

HB 1436, relative to pecuniary benefits of real estate transactions and loans of directors and officers of charitable trusts and establishing a committee to study the laws relative to charitable trusts.

Senator Rubens moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Rubens, Larsen, Roberge.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate:

HB 1541, relative to employee leasing companies and temporary help services.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Robert Hawkins
 Gary Daniels
 Robert Clegg
 Edgar Mears

SENATE ACCEDES TO HOUSE REQUEST

HB 1541, relative to employee leasing companies and temporary help services.

Senator Danais moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Danais, Fraser, J. King.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1546, promoting boating safety awareness.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Michael Whalley
Peter Crowell
Robert Laflam
Tom Kirby

SENATE ACCEDES TO HOUSE REQUEST

HB 1546, promoting boating safety awareness.

Senator Gordon moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Gordon, Russman, Cohen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1597, changing the wetlands board to the wetlands council.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Howard Dickinson
William Williams
Rudolf Adler
Tom Kirby

SENATE ACCEDES TO HOUSE REQUEST

HB 1597, changing the wetlands board to the wetlands council.

Senator Russman moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, F. King, Pignatelli.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

HB 1220, providing that the state shall apply for and utilize moneys from the Goals 2000 - Educate America Act.

Senator Currier moved adoption.

Adopted.

COMMITTEE REPORTS

HB 1320-A, an act making a supplemental appropriation for capital improvements to the university system of New Hampshire for the Young Building at Keene state college. Capital Budget Committee. Vote: 4-3. Ought to pass. Senator J. King for the committee.

Senator Blaisdell moved to have **HB 1320-A**, an act making a supplemental appropriation for capital improvements to the university system of New Hampshire for the Young Building at Keene state college, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1320-A, an act making a supplemental appropriation for capital improvements to the university system of New Hampshire for the Young Building at Keene state college.

HB 533-FN, an act relative to retirement benefits for the state treasurer. Finance Committee. Vote: 4-2. Ought to pass with amendment. Senator Blaisdell for the committee.

5948L

Amendment to HB 533-FN

Amend the bill by replacing section 1 with the following:

1 Retirement Benefits; State Treasurer. Notwithstanding any provision of RSA 14:27-c to the contrary, the state treasurer who is in service on the effective date of this act may exercise the option to buy back service credit under RSA 14:27-c at the currently prevailing rate under RSA 14:27-c plus compounded interest calculated at 7.5 percent of each year's buyback amount, at any time prior to but no later than January 1, 1997.

SENATOR BLAISDELL: Mr. President and members of the Senate, this bill is an amended bill by the way, it authorizes the state treasurer who is currently in office to buy back service credit for retirement purposes. As amended, the state treasurer who is in service on the effective date of this act, January 1, 1996, may buy back service credit at the current rate, plus compounded interest that calculated at 7.5 percent of each year's buy back amount. That is the difference from the old bill which was 4.5 percent. Senate Finance felt that 7.5 percent was the right way to go. Ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 565-FN-L, an act establishing a study committee to develop a methodology for reimbursing municipalities which host state facilities and university system properties for the financial impact of such facilities and properties. Finance Committee. Vote: 5-1. Inexpedient to legislate. Senator Barnes for the committee.

SENATOR BARNES: The Senate Finance Committee by a 5-1 vote found this bill inexpedient to legislate. This issue has been studied extensively over the last several years and at this time, we feel that another study

committee would be counter productive. The parties have gotten together, they are still working together. They will fresh start on the next year on another piece of legislation, perhaps. We feel this is the best way to go on this issue. Give it a rest and please vote with the Senate Finance Committee.

SUBSTITUTE MOTION

Senator Larsen moved to **substitute ought to pass for inexpedient to legislate.**

SENATOR LARSEN: I had an opportunity to speak to Senate Finance on this, but I want to appeal to all of you, because what this is, is an issue of fairness. We have HB 565 which does not mandate a new formula, but it requires a study committee to begin to move us to the next step, which is to develop a formula which is fair. We currently have huge variation around this state, those cities and towns which have state facilities. The city of Concord has a huge dilemma with its taxes and services because 26 percent of our property is non taxable. Thirteen percent of that is state owned property. Currently, Concord receives \$78,000 as reimbursement for what is called its fire services, and yet you look around . . . if you were to do a tax bill on this property that the state owns, the state would, in fact, owe the city of Concord \$3 million. We are not asking for that, but we are asking for the state to begin to address the issue of fairness. We have variation between Durham receiving \$1.8 million and Keene receiving \$325,000 and Plymouth receiving \$243,000 and Manchester receives \$31,000. There is no rhyme or reason to the way that the state currently reimburses for its formulas. But what we do have, what is recognizable in this, is that it is unfair; and it is unfair, particularly, to the city of Concord which provides fire service, police service and receives \$78,000. It is a heavy burden on Concord's taxpayers. I certainly recognize, as do all of the city of Concord, the benefit of having the state employees and the stability that that offers to our economy, but we also have to recognize that if this state is going to rely on the property tax, then the state needs to recognize its duty to pay for the services through property tax, perhaps, or some other formula. I urge you to move this the next step. We can continue to have bills for session after session. This bill would move us to a study committee to begin to say if this is fair. I urge you to consider, is this fair? I urge you to say that this bill ought to pass.

SENATOR BARNES: Senator Larsen, for four years I have sat on various committees studying this, and I have heard the unfairness to Concord. I believe that I heard you say twice during your testimony that \$78,000 is all the money that you get back. But would you believe, Senator Larsen, for four years, I have been trying to find out from the city of Concord, what they receive for tax benefits out of buildings that the state rents, the restaurants, the hotel, the various other functions that we 424 would pour into the city of Concord, and I would have to say to you that I believe that it is a lot more than \$78,000. Do you have any numbers of what additional benefits we, in the city of Concord, as legislators, bring into the economy of this great city?

SENATOR LARSEN: Senator, I have some statistics that I have begun to collect from the fire department. I have the ability to get that information if you would permit us to have a study committee to gather that information through the state, because if we had that study committee, we might find, in fact, that the state is bringing money into Concord, but let's look at it. We haven't looked at it seriously. It is time to look at it.

SENATOR BARNES: Thank you, Senator Larsen. Would you believe, as I said earlier, for four years I have been trying to get those things, so I think that another study committee this summer, would have no benefit at all? I would like to ask you a final question, Senator, if I may? Next session, if you and I are both back here serving our constituents, would you join me on a piece of legislation to get more facts and figures and give it a rest this summer and we will come back with a fresh start? Would you sign onto a piece of legislation with me and help me get these problems resolved if we can?

SENATOR LARSEN: I am willing to go work on that this summer or anytime that you are willing to sit down and work on it.

SENATOR BARNES: Next year would be fantastic. Thank you, Senator.

SENATOR STAWASZ: Senator Larsen, does this bill seem vaguely familiar, especially in terms of your mentioning the fire service and it was nice that you had the siren glaring on cue, that was very good. It reminds me of a bill with the university system that Senator Shaheen had where we discovered that the university felt that the donation of the fire station wasn't significant because they had to spend a couple hundred thousand dollars to renovate it, but they totally forgot about the million dollars plus, them big red things with tires, that the university donated. Would you believe, that I agree with Senator Barnes that the communities have been very reluctant to have an accurate count? I agree that it should be studied, but I feel that maybe in your role as a city councilor, you could have the city study this and provide that information that Senator Barnes and I have found so elusive?

SENATOR LARSEN: As I mentioned, I have asked the departments to begin to collect that information as well as to keep a record of all of the state calls so that we have an accurate record of both the money in and the money out. But I think that the state needs to recognize that it would be helpful to have its participation in collecting this information.

SENATOR STAWASZ: Would you believe that I feel that the appropriate time to study it would be after you got the information and not during?

SENATOR LARSEN: All of us know that on study committees, that is the time when you gather information. The impetus to gather that information without a request from a committee is very difficult to keep that impetus going. Thanks.

Recess.

Out of recess.

SENATOR GORDON: I rise to speak in favor of the substitute motion and not because I disagree with anything that has been said by anyone here on this particular issue. I agree that it has been studied too long. I believe that there is a lot of information that we need to have, but the problem is that the parties in this matter just can't seem to come together and reach a resolution. I have never seen this body so reluctant to adopt a study committee before, since I have been here. That is what this is, is a study committee. They are given a specific commission to say let's come up with some way of looking at this, of developing a formula to put this matter at rest, because we have been dealing with this for years and years and years. If you live in the town of Plymouth, you know that your town incurs costs as a result of having Plymouth State College there. You know that your fire department may be a little larger, your police department

may be a little larger, you may know that the students come in and their children go to the Plymouth school. Then maybe you incur some additional costs as a result of that. Maybe there is a way of identifying those costs and then coming up with some way to appropriately reimburse a community for the expense that it bears as a result of being the host for a state facility. One thing that is very important, because this hasn't been mentioned in the questions that have been asked, is that this specifically requires that the economic impact on the community be considered. That means, that not only do you look at the costs, but you look at the benefits to the community. I mean, if this committee did its job right, you might come up with a plan that has the town of Plymouth reimbursing Plymouth State College, okay? So the bottom line is, what this does, is to send them out there and study it and let's get this thing over with, otherwise, you are absolutely right, Senator Barnes, we will be back here looking for another bill next year, we will be no closer to resolution and this will go on forever. So let's do a study committee. I have never seen this body so reluctant to adopt a study committee. Thank you, Mr. President.

SENATOR BARNES: Senator Gordon, if you would have sat for the last four years on the same study committee which did address the amount of money that the towns brought in, that it is nothing new. That is what this is saying, that this is nothing new, it has been there before. We have asked for the numbers and we haven't been able to receive them, including the town of Plymouth, because they were greatly involved in our studies, then perhaps you would understand why we don't think that we need another study committee this summer, but are willing to re-address it next year. I would invite you, let me ask you, would you join Senator Larsen and myself on a piece of legislation that is meaningful, next year, if the three of us are reelected?

SENATOR GORDON: My answer to that is, I don't think that we are going to be prepared to put in a piece of legislation next year, unless we gather the information and study it over the summer to be prepared to do that.

SENATOR BARNES: That information is available, four years worth, it is on the shelf, sitting in a book. Thank you. That information is already there.

SENATOR GORDON: I believe that.

SENATOR JOHNSON: Senator Gordon, if the towns are that concerned, why are they so reluctant not to do their own study and come up with that information?

SENATOR GORDON: Because the institutions, that are located there, are state institutions, so they can do their study, but they can study forever, Senator Johnson, that doesn't make a difference. You have to have two parties at a table in order to make a difference.

SENATOR JOHNSON: Couldn't the parties get together with the system that is there now, with Plymouth State College and get that information from the college and work with the town?

SENATOR GORDON: I think that is exactly what the issue is. That they have been trying to do this for a number of years and they have asked the legislature to intercede on their behalf to try to bring a resolution as an honest broker. I think that is what an attempt at a study committee would be, to be an honest broker in this matter.

SENATOR STAWASZ: I appreciate my colleague from Plymouth and his optimism that the state university might find itself in a position of receiving payments from the town of Plymouth; however, would you feel, Senator Gordon, that this study committee bill establishing a purpose to develop a methodology for reimbursing municipalities which host facilities, might somewhat prejudice the outcome and preclude your optimism?

SENATOR GORDON: I think that if you want the committee to be meaningful, you have to narrow its scope, Senator Stawasz.

SENATOR J. KING: Senator Gordon, would you agree with me, wouldn't it be better to leave this as it is, and let the study committee continue, than to put it in next year and have 1200 bills put in next year, and then there wouldn't be 1201? We could save some money for the state?

SENATOR GORDON: It is a great idea, Senator King.

Question is on the substitute motion of ought to pass.

A roll call was requested by Senator Larsen.

Senator Larsen withdrew her request for a roll call.

Substitute motion of ought to pass failed.

Question is on the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

Senators Blaisdell, Cohen, Gordon, F. King, Larsen, Pignatelli and Shaheen in favor of HB 565.

Recess.

Senator Keough in the Chair.

HB 1134-FN, an act relative to registration of certain criminal offenders. Finance Committee. Vote: 6-0. Ought to pass with amendment. Senator Lovejoy for the committee.

5949L

Amendment to HB 1134-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to registration of certain criminal offenders
and relative to the registration and
fees for semi-trailers.

Amend RSA 651-B:1, V as inserted by section 1 of the bill by replacing it with the following:

V. "Offender against children" means a person who has been convicted of any violation or attempted violation of:

(a) Any of the following offenses, where the victim was under the age of 18 at the time of the offense, RSA 633:1, 633:2, 633:3 or 645:2; or

(b) RSA 169-B:41, II, 639:3, III, 649-A:3 or 650:2, II; or

(c) A law of another state or the federal government reasonably equivalent to a violation listed in subparagraph (a) or (b).

Amend RSA 651-B:6, I as inserted by section 1 of the bill by replacing it with the following:

I. Any sexual offender convicted of a violation or attempted violation of RSA 632-A:2 or 632-A:3, and any offender against children convicted of a violation or attempted violation of RSA 169-B:41, II, 633:1, 633:2, 639:3, III, 645:2, II, 649-A:3, I, or 650:2, II, or of an equivalent offense in an out-of-state jurisdiction, shall be registered for life.

Amend the bill by replacing all after section 3 with the following:

4 New Section; Semi-Trailers; Registration Fees; Municipal Permit Fees. Amend RSA 261 by inserting after section 141-a the following new section:

261:141-b Registration of Semi-Trailers. Notwithstanding any other provision of law to the contrary, a semi-trailer may be registered for a year or more but such registration shall not exceed 7 years.

5 Registration Fee for Semi-Trailers. Amend RSA 261:141, III(h) and (i) to read as follows:

(h) Truck-tractors to be used in conjunction with a semi-trailer, gross weight shall include the weight of such tractors, the weight of the heaviest semi-trailer to be used therewith, and the weight of the maximum load to be carried thereby: up to 73,280 pounds - \$.84 per 100 pounds gross weight, over 73,280 pounds - \$1.44 shall be charged for each 100 pounds gross weight or portion thereof in excess of 73,280 pounds. ***Such sum shall be multiplied by the number of years for which the semi-trailer is being registered to determine the registration fee.***

(i) Each additional semi-trailer used in conjunction with such truck-tractor — \$24.00 ***which shall be multiplied by the number of years for which the vehicle is being registered.***

6 New Subparagraphs; Semi-trailer; Municipal Permit Fee. Amend RSA 261:153, III by inserting after subparagraph (b) the following new subparagraphs:

(c) The municipal permit fee for semi-trailers registered in conjunction with a truck tractor as provided in RSA 261:141, III(h), shall be as provided in this section multiplied by the number of years for which the vehicle is being registered, using the existing mileage calculation after year one.

(d) The municipal permit fee for semi-trailers registered in accordance with RSA 261:141, III(i) shall be \$24 multiplied by the number of years for which the vehicle is being registered.

7 Effective Date.

I. Sections 1-3 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect January 1, 1997.

AMENDED ANALYSIS

This bill establishes a new RSA chapter which requires the registration of persons convicted of the following offenses when the victim is under the age of 18:

I. Prostitution.

II. Child pornography.

III. Kidnapping.

IV. Criminal restraint.

V. False imprisonment.

Under current law, registration is required when the offense is aggravated felonious sexual assault, felonious sexual assault, or sexual assault, and for subsequent convictions of indecent exposure.

The bill repeals RSA 632-A:11-632-A:19, on registration of sexual offenders.

This bill also:

I. Authorizes semi-trailers to be registered for up to 7 years.

II. Establishes how registration fees for semi-trailers are to be calculated.

SENATOR LOVEJOY: Mr. President, HB 1134 will have no impact on the current biennium according to the Department of Safety. Anything

after this biennium will be dealt with within the budget. The first part of the bill made technical changes to bring state law into compliance with federal regulations by requiring registration of sexual offenders. It increases the types of offense for which registration was required and imposes a 90 day check in requirement for persons found to be of serious danger to others due to a gravely abnormal mental condition, otherwise known as sexual predators. The second portion of the bill as amended by the Finance Committee, brings back provisions previously adopted in SB 542 relative to long-term requirements of trailers and tractors, although the fiscal impact is indeterminable, it would be favorable to the state and to local governments if we were to adopt these provisions. The Finance Committee, by unanimous vote, recommends ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

Recess.

Senator Delahunty in the Chair.

HB 1154, an act establishing kindergarten planning assistance and maintenance aid programs, and making an appropriation therefor. Finance Committee. Vote: 6-1. Inexpedient to legislate. Senator Colantuono for the committee.

SENATOR COLANTUONO: This is the House version of a kindergarten program. HB 1154 established a planning and assistance kindergarten maintenance aid program to be administered by the Department of Education. The purpose was to provide state assistance to districts that presently operate kindergartens to insure the continuation of these programs and to encourage those districts that do not provide kindergarten to make it available. The bill would have appropriated \$500 per pupil for all of the districts. According to the fiscal note, it would have cost \$8 million; however, the House only funded it with \$1. As far as I know, the House has amended our SB 7 to put their program on it. That came over to us, we have nonconcurring and asked for a Committee of Conference. The determination of the Finance Committee, was that we should handle kindergarten in one Committee of Conference rather than having two separate ones in two different bills, so the Finance Committee voted to make this bill inexpedient to legislate and to go forward on SB 7.

SUBSTITUTE MOTION

Senator Larsen moved to **substitute ought to pass for inexpedient to legislate.**

SENATOR LARSEN: What you had in HB 1154 is the right kindergarten bill. SB 7 is a start, because it is an incentive plan for kindergarten to start up, but that only helps six school districts, maximum. I understand that there is really only three school districts close to instituting a kindergarten. In HB 1154 you have a plan to begin to fund kindergarten at \$550 per pupil. That is maybe one-third of the cost of operating a kindergarten class, and yet, it would be a significant incentive for towns and cities to continue kindergarten. In HB 1154 you would have had kindergartens not only encouraged to continue throughout the state, but it would have been incentive monies for start up kindergartens with \$15,000 to begin to fund and equip those kindergartens. By the Senate Finance rejecting this bill, you have said that kindergarten isn't impor-

tant to us. Alright, you didn't say that kindergarten isn't important to us, you have said that kindergarten isn't going to happen this year. We need to make kindergarten happen this year. We need to make kindergarten our top priority, over 30 years we have been working on this idea. There is a point when you have to fish or cut bait. You have to say "we are going to do it this year." Now you have several plans. The governor came to the Senate Education Committee and said to fund it with the Nuclear property tax, Senate Finance considered it briefly, but they realized that the nuclear property tax funded by Seabrook comes right out of the general funds, that is the governor's plan for funding kindergarten, through general funds. You looked around at other sources of money and didn't find any sources of TAPE CHANGE through the cigarette tax. I have an amendment here, ready, if you vote yes on ought to pass, which would fund kindergarten through the cigarette tax. It is a kindergarten assistance program to also help cancer related research, to fund kindergartens and special education. It has on the end of it, this amendment, if we can get to it, by you voting yes on ought to pass. It says, "it is the intent of the legislature, that if a school district provides access to public kindergarten prior to July 1, 1996 the funds distributed to such district for kindergarten shall be used for property tax relief." Do you support property tax relief for your towns and cities? Do you recognize the need to help them pay for the special education as well as kindergarten? Here is your opportunity. Vote yes on ought to pass and I will give you this floor amendment. This source of funds from the cigarette tax pays for kindergarten and brings property tax relief to your district and it goes directly to the school districts with the legislative intent, that if they currently operate it, they also have to provide property tax relief through the intent of the legislature. It encourages them to do that. It is the only way that we are going to make kindergarten happen. It is a great way to bring property tax relief to your towns and cities. I urge you to vote ought to pass and I have this amendment ready.

SENATOR SHAHEEN: Senator Larsen, isn't it true that our investment in kindergarten would be a good investment because studies show that for every \$1 spent on kindergarten, we save \$6 at the other end because kids who go to kindergarten are more likely to graduate from high school, they are less likely to become juvenile delinquents, they are less likely to be incarcerated as they get older, so don't you think that would be a good investment for us?

SENATOR LARSEN: It is about the best investment that we can make this year. We also know that eighty percent, through citizen polls, support the use of the cigarette tax for kindergartens. So it is the best use of the money that I can think of this year.

SENATOR SHAHEEN: Senator Larsen, while I understand that you're suggesting that your amendment would fund kindergarten through the cigarette tax, isn't it also true, that if we had not paid too much for health care benefits for state employees to the HMO's over the last several years, that we would have had the \$5 to \$8 million necessary to fund kindergarten in this bill?

SENATOR LARSEN: That is true, and it is also true that there have been many times when we have spent money in other directions, but we continue to ignore kindergarten as needing that source of funds from the state.

SENATOR CURRIER: I would like to know if Senator Shaheen could restate that last question. I didn't quite understand what she said in terms of the question and how spending money on state employees health care has to do with it?

SENATOR SHAHEEN: Senator Currier, I was making reference to the Kenmore Associates Report that came out in 1994 that was done jointly for the state and the State Employees Association, that said, "in fact, the state has been paying between \$5 and \$8 million too much for two HMO's for managed care for its state employees." I was pointing out that if we had not been doing that, then in fact, we would have had the money to pay for the kindergarten bill that is before us now.

SENATOR CURRIER: I just want the record to be clear. The points that Senator Larsen made today and some of the suggestions that she has made relative to the kindergarten bill are very important. We have already debated most of those and turned them all down. The position of Senate Finance is not of one against kindergarten. The position of Senate Finance is clear, we want to put all of our eggs into one basket, one vehicle and one vehicle only. We don't need two vehicles alive. We have SB 7 which is in a Committee of Conference now, and we are going to put all of our eggs into that one basket and try to come out with a resolution between the House and the Senate to have a kindergarten proposal that will go forward this session, and that is the intent.

SENATOR RUBENS: I rise in opposition to the motion of ought to pass for two reasons, one being, I don't think that it is fair to people to pass bills with \$1 appropriations. I will tend to vote against such bills because it is simply nothing but an empty promise. Two, if there were, and you know that I am on the record already, Senator Larsen, for supporting the tobacco tax for the purpose of funding public kindergarten, but the bill as written here, HB 1154 would result in massive disruption to a kindergarten program that we already have in the state, by virtue of this sentence "to operate a kindergarten program within an approved public school maintained by the local school district." What that would do is to foreclose funding of private kindergarten that are already sufficiently and adequately and perhaps, happily, providing that service in local districts. So I would encourage any system of kindergarten aid to take into account the fact that a significant fraction of the population of the state is attending private kindergartens which are doing a good job and we don't want to cause massive restructructions as this bill would cause. Thank you, Mr. President.

SENATOR F. KING: Senator Currier, if what I hear that is being said, there is going to be a Committee of Conference on SB 7, and after that Committee of Conference has completed its work, is it not true that Senator Larsen is still inclined to bring in an amendment to a kindergarten bill, that she would have the opportunity to do that at that time?

SENATOR CURRIER: No that would not be true. The Committee of Conference is the only opportunity to do this.

SENATOR F. KING: So she would have to take her concerns to the Committee of Conference?

SENATOR CURRIER: To the conferees of either side.

SENATOR F. KING: Thank you.

SENATOR LOVEJOY: I will speak very briefly, Mr. President, but I must speak, because I want to make it perfectly clear to this state, that in,

Senator Larsen, your eloquent speech, that this Senate has taken a position on SB 7 that we want kindergarten. That is the Senate's position and for you to imply that we don't want kindergarten is extremely unfair to the Senate. There has to be a rebuffing of that statement. That is just not so. This Senate voted, very strongly, for SB 7, we sent that over and the House changed it. We don't agree with their changes and we asked for a Committee of Conference. We are trying out best to have kindergarten in this state. There has been a discussion of how it is going to be funded. You happen to disagree with the funding that was in SB 7. That is fine, that is your prerogative. But that is the Senate's position at this point. It is the administration's position. The governor couldn't have been more strong throughout the whole session in his support for public kindergarten. To imply anything different, is extremely unfair and it is not true. This whole body has been in support of kindergarten. That is our intent and that has been our intent, and that is our intent in the future. We will go to a Committee of Conference. Now it would be, in my view, foolish, to go to the Committee of Conference with two or three kindergarten bills. We go with one bill. We go with the Senate position. That is the way that we do things. We go with the Senate's position. We have taken a position and to try and change that now is wrong. We must vote down your amendment and we must go to a Committee of Conference with the vote of the Finance Committee and its discussion. We have already, Mr. President, turned down the cigarette tax for this very purpose.

SENATOR BLAISDELL: Senator Lovejoy, yesterday . . . and I agree with what Senator Currier said that Senate Finance had agreed that we should have one vehicle and that it could be done in a Committee of Conference. Wasn't it also true yesterday, and it hasn't been mentioned, that the governor proposed an amendment to the kindergarten bill saying to take \$6 million out of the excess money in Powerball and that should go to the Augenblick Formula? Wasn't that also proposed yesterday?

SENATOR LOVEJOY: Yes, that was proposed and discussed by the Finance Committee. The Finance Committee felt that we should stay with SB 7 and go to the Committee of Conference.

SENATOR BLAISDELL: Thank you very much.

SENATOR GORDON: Senator Currier, just so I know what I am voting on here. SB 7, which we don't have in front of us, as I recall, it is an incentive bill that would provide monies for incentives for districts to create kindergartens, is that correct?

SENATOR CURRIER: That is my understanding; however, that has been amended by the House.

SENATOR GORDON: Okay. How has it been amended by the House?

SENATOR CURRIER: Without looking at the bill, I couldn't tell you point by point how they amended it. Senator Lovejoy probably would be able to do that. I don't think that any of us have the bill. I think that the point here is, that the position of Senator Larsen and others, using the cigarette tax, the governor using the excess Powerball tax, it is deal making time around here ladies and gentlemen, whether you realize it or not. Now is the time to cut the deals. That is what the Committee of Conference is. You can add any of those things back into the game plan to come out with a kindergarten bill. Nothing is excluded from it.

SENATOR GORDON: That gets to the heart of my question. As I understand, what Senator Lovejoy has just described as the "Senate's position." The Senate's position was that we were going to create an incentive plan. Now if I were to believe that we should be doing more than that, we should be funding kindergarten, I guess that what I am asking you, as a potential conferee, is the issue of finding funding for kindergarten, as a whole, going to be a matter of concern for the conference, because that affects my vote here today?

SENATOR CURRIER: I can only say, personally, how I feel about that. I think that it behooves the conferees, whoever they are, and they haven't even been named yet, but whoever they are, I think, it behooves them to change their little green tags into little orange tags, so that they are lobbying one another for a unified position on kindergarten. I think people in the state of New Hampshire recognize that kindergarten is a benefit and that we should find some way to do something about it. Now we will all have the final vote on what the conferees come up with, so we all need to change our badges around, and if we really believe in this, and get behind whatever position comes out of it. It may not be the Senate's position, and it may not be the House's position. As usual, it will probably be something in the middle. I mean, I have hope for this still and that is one of the reasons why I supported getting rid of that other vehicle. I didn't want to have conferences because then you get a whole lot of convoluted process going back and forth, especially if you name the same conferees to both committees. Does that answer your question?

SENATOR GORDON: Yes. But I think that I would like to ask a question of Senator Lovejoy.

SENATOR GORDON: Senator Lovejoy, I am curious to know whether or not if you know whether or not the House has amended the bill to include a funding of existing kindergartens as well as an incentive plan?

SENATOR LOVEJOY: I haven't seen their bill, Senator Gordon, so I can't answer that specifically. I believe very strongly that we go to the Committee of Conference and good will become of it. I think that a kindergarten bill will come out. I believe that is what we all want.

Recess.

Out of recess.

SENATOR BLAISDELL: Senator Larsen, the bill that you are speaking to, right now, all that I would be voting on if I voted with you as ought to pass, is that I agree that \$550 would go to each child in the state of New Hampshire for kindergarten, is that what I am talking about?

SENATOR LARSEN: That is correct, because HB 1154 only would be a statement from the Senate that we agree that \$550 per child is a level that we support. It is a bigger issue than what we have supported in the past which is incentive funds for start up kindergartens.

SENATOR BLAISDELL: That is excellent. It would send a great message over to the House. I agree. Is it my understanding that you will not enter a cigarette tax amendment, because I cannot support that?

SENATOR LARSEN: That is correct. I have the floor amendment here and I have decided that I will not offer the floor amendment as a subsequent motion. I do have it ready should the Senate or the House someday be looking for an amendment as a way to fund kindergarten, but I will not offer afterwards.

SENATOR BLAISDELL: So it is your opinion, that we would be sending a strong message to the House that we support kindergarten in this Senate?

SENATOR LARSEN: That is right.

SENATOR BLAISDELL: Good.

SENATOR F. KING: Senator Larsen, doesn't this bill only have a \$1 in it for kindergarten?

SENATOR LARSEN: It does, but when we get to the Conference Committee, we will be looking for more than a \$1. It is a statement that we believe that the state ought to be supporting \$550 or some level for all of the schools that currently offer kindergarten to keep them in the business of offering kindergarten. I see it as a Senate statement that we support kindergarten.

SENATOR F. KING: Would you believe, Senator Larson, that we have already made this statement about six times in the last two years, that we support kindergarten. How many times do we have to make that statement? Why don't we let the Conferees do their job?

SENATOR LARSEN: I like making it every day until we get kindergarten. It is just a good statement to keep making.

Question is on the substitute motion of ought to pass.

A roll call was requested by Senator Larsen.

Seconded by Senator J. King.

Paired Votes: Senators Currier, Pignatelli.

The following Senators voted Yes: Gordon, Blaisdell, Larsen, J. King, Russman, Shaheen, Cohen.

The following Senators voted No: F. King, Johnson, Fraser, Rubens, Lovejoy, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Barnes, Danais, Delahunty, Keough.

Yeas: 7 - Nays: 15

Substitute motion of ought to pass failed.

Question is on the committee report of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1253-FN-A, an act relative to senior "meals on wheels" and senior transportation and transferring certain funds. Finance Committee. Vote: 6-0. Ought to pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1253 will fund programs that will enable many New Hampshire seniors to receive the services that they require while remaining in their own homes, thus, reducing the need for costly residential care. The state would also see an increase in the expenditure of Medicaid funds for long-term care for the elderly as more local programs are diminished. This bill will help to reduce cost for long-term elderly care by maintaining these community based services and allowing many elderly citizens to remain independent in their own homes. The Finance Committee recommends HB 1253 as ought to pass.

Adopted.

Ordered to third reading.

Senator Lovejoy in favor in of HB 1253-FN-A.

HB 1406-FN-A, an act authorizing the commissioner of the department of corrections to transfer funds within the department of corrections budget for funding for the pathways program for the fiscal year 1997. Finance Committee. Vote: 4-2. Ought to pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1406 allows the Department of Corrections to make transfers within their existing budget in fiscal year 1997 to fund the Pathways Program. The total amount of the transfer allowed is \$1 million which will be reduced by any federal funds remaining from the fiscal year 1996 brought forward to 1997. The Finance Committee recommends HB 1406 as ought to pass.

Adopted.

Ordered to third reading.

HB 1515-A, an act establishing a telecommunications assistance program. Finance Committee. Vote: 6-0. Ought to pass with amendment. Senator Podles for the committee.

5893L

Amendment to HB 1515-A

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a telecommunications assistance program and
appropriating certain funds for initial
costs of such program.

Amend the bill by replacing section 2 with the following:

2 Initial Source of Funding. Moneys on deposit, as of the effective date of this act, in the escrow account associated with the telecommunications relay service established by public utilities commission order no. 20,236 shall be the initial source of funding and the sum of \$160,000 is hereby appropriated for fiscal year 1997 for the telecommunications assistance program established in RSA 362-E. This appropriation shall not lapse until June 30, 1998.

AMENDED ANALYSIS

This bill establishes a telecommunications assistance program, which shall be administered by the governor's commission on disability. The bill appropriates certain moneys for the initial costs of the new program.

SENATOR PODLES: Mr. President, HB 1515 establishes a telecommunications assistance program which shall be administered by the Committee on Disability. As amended, this program will assist the deaf, the hard of hearing, speech impaired or unable to reasonably use standard telephone equipment due to disability. If eligible, these people will be able to obtain special equipment to communicate by telephone using the same funding source that now pays for the telephone relay service whose source is the basic exchange rate. An escrow account was established when telephone relay account rates were initially set at ten cents per access line, and then they were reduced to two cents in September of 1994 to draw down this fund. This would be a one-time tap of this escrow account to fund this program. In the future, it will be funded in the budget. It will be \$160,000 that will be appropriated from the escrow account and it will not lapse until June 30, 1998.

Amendment adopted.

Ordered to third reading.

HB 1536-FN-A-L, an act relative to encouraging private purchase, clean up, and restoration of environmentally contaminated sites and making a supplemental appropriation to the department of environmental services. Finance Committee. Vote: 6-0. Ought to pass with amendment. Senator Keough for the committee.

5920L

Amendment to HB 1536-FN-A-LOCAL

Amend RSA 147-E:2 as inserted by section 2 of the bill by replacing it with the following:

147-E:2 Establishment of Program. An environmental cleanup program is hereby established to further the redevelopment of contaminated properties. The cleanup program shall be administered by the department. The department of health and human services shall assist the department as necessary by the review of risk assessments for properties for which the department determines that risk assessments shall be conducted. The department of justice shall issue covenants to eligible persons in accordance with RSA 147-E:6.

Amend the introductory paragraph of RSA 147-E:18, I as inserted by section 2 of the bill by replacing it with the following:

I. The commissioner shall adopt rules, after public hearing and pursuant to RSA 541-A, relative to the administration of the brownfields program, including:

Amend the bill by replacing section 9 with the following:

9 New Paragraph; Health Risk Assessment Bureau. Amend RSA 125-H:3 by inserting after paragraph IV the following new paragraph:

IV-a. The commissioner shall have responsibility for developing guidelines for risk assessments.

SENATOR KEOUGH: HB 1536 creates two positions and transfers one position to the Brownfield program to be funded with an appropriation of \$216,000 from the Hazardous Waste Cleanup Fund. HB 1536 as amended, makes technical changes in the bill as requested by the Office of Legislative Services. Changing all references in the bill from "Division" to "Department" and "Director" to "Commissioner." The Finance Committee recommends HB 1536 as ought to pass as amended.

Amendment adopted.

Ordered to third reading.

HB 1540-FN-L, an act changing the school foundation aid distribution formula. Finance Committee. Majority report: Inexpedient to legislate. Senator Lovejoy for the committee. Vote: 5-1. Minority report: Ought to pass. Senator Blaisdell for the committee. Vote: 1-5.

SENATOR LOVEJOY: Mr. President, HB 1540 would have altered the Foundation Aid Distribution Formula. The equalized evaluation would have been averaged over a second, third and fourth preceding fiscal years instead of the current evaluation based on the second preceding fiscal year. The committee felt that average in the three years to determine valuation would be detrimental to many towns. The committee recommends this bill as inexpedient to legislate. Mr. President, this came from the policy committee with an inexpedient recommendation. At the session that we presented it to the Senate, in deference and respect to Senator Blaisdell, we agreed that it would go to Senate Finance for another look at it. It did go to Finance, and Finance took a look at it and they also have come back with a recommendation of inexpedient to legislate.

SENATOR BLAISDELL: Mr. President, I have the motion of ought to pass. I appreciate the courtesy of the Senate sending this bill down to Finance. I think that on my way home this evening, I am certainly not going to drive through Winchester, and I am sure not going to drive by Keene State College, I can tell you that right now. But you know, falling down doesn't make me a failure, I guess, but staying down does. Some said that a long time ago. I remind this Senate that all children in the state of New Hampshire belong to each and every one of us. Berlin belongs to me as well as Keene belongs to you, Senator King, and they have problems up there on this bill. This bill does not hurt anyone. It is spread over a three-year average. This is a school in Winchester that got national recognition for pulling themselves up by their bootstraps. They were on CNN and all over the country. They were a model in what they did. Losing \$643,000 in one year is going to devastate that community. It has a tannery in the middle of it that has hazardous waste that nobody even wants to go near. In fact, it got so bad that when I put a bridge up to get to it, they took it down. There are some problems. The governor came in yesterday and presented in Finance, as I told you, to fund kindergarten. He wanted to take the excess money out of Powerball. Powerball money belongs in the Augenblick Formula. For God's sake, don't ever let that happen in here, because that would further devastate anything that Winchester might get. There are other towns the same way. Sullivan in my district, they are going to lose \$33,000. It doesn't sound like much, but it hurts. It hurts these kids. You are not going to hurt me. I will get elected anyway out of Winchester because they know how hard I have worked to solve this problem for those people down there and those kids. They have all talked to me. I can't see how, we as a Senate, in good conscience, will not really take a harder look at this. Senator Lovejoy, you told me that you were going to go to the governor and talk to him. Nothing has happened. I imagine that you have, but he hasn't said a word about that. I have sent him two letters. I sent him a letter the other day, knowing that this bill was going to fail on the floor of the Senate, asking if there wasn't something that he couldn't do to help Winchester. Just something. I have had no response. I know that he is pretty busy, but I will tell you, these kids down in Winchester, they are going to lose their accreditation for their school. You might as well not send them any Powerball money for kindergarten, they are not going to be able to take care of the ones that are there already. The teachers in this school over the years have bought the books for these kids. Some of the books, and I will bring them to you or if anyone wants to go to Winchester, to go the high school, come on down, I will show you the books are there. They are from 1950 some of them. How in God's name in good conscience can you sit here representing the people of this state. Don't just think of yourself and your district, what you are going to get. Let us think of the kids in this state. That is why you have a suit, in fact, I may take some money out of my campaign money to try and give Winchester the money. TAPE CHANGE I am also going to go to that television crew and tell them to come back and see what we have done to that district. Maybe they should portray that throughout the country. That would be a good thing to take to the congressional things, Senator Lovejoy and Senator Colantuono. Take it out there and show them what you have done to a district. Every kid in this state belongs to each and every one of you. You ought to accept your responsibility and help those kids. Somehow. I don't know how. If this isn't the vehicle, find another one. But it is a shame. Senator Lovejoy said to me yesterday, that it would be a wrong message to send

because we are in the courts being sued. This has nothing to do with it really. Nothing. I am disappointed. I am appalled, really. In all of the years that I have been here, I have never seen anything like this in my life that the Senate wouldn't be responsible to the needs of kids in this state, because they are your kids as well as they are mine. Thank you.

SENATOR SHAHEEN: Senator Blaisdell, as I look at this bill, I don't see a fiscal note on the bill, am I missing something? Is there going to be any cost to the state if we pass this bill?

SENATOR BLAISDELL: To tell you the truth, Senator, I really don't know. I could probably talk to you about the Augenblick Formula, but this is the Merrill blick Formula, it isn't Augenblick anymore, it is Merrill blick. That is his bill, just as pure and simple as that. I don't know that it is going to cost.

SENATOR SHAHEEN: Well as I read the fiscal impact here, it says that there is a fiscal impact of less than \$10,000 and when I spoke to the LBA, they said that is sort of a standard, even if it were \$100 or \$200 that they would still put that kind of a fiscal note on it. So I guess my fundamental question here is, given that there is no cost involved in doing this, can you explain to me why the Finance Committee didn't see fit to go ahead and pass this bill given what it would provide for districts like Winchester?

SENATOR BLAISDELL: Well the three-year average is what we talked about. Certainly it would drop some of it one year and get it back the next year. It would be a three-year average. You wouldn't have any ups and downs really. It would be three-year average. The towns and cities wouldn't lose any money, they would get it over three years. That is what I don't understand. They could plan on it. I have beaten this to death and I know that you want to rush on here, but I have no answer. I can't understand why, if we are going to be here for another few weeks, why we can't try and save something and make it right for the kids of our state. They belong to you as I have told you.

SENATOR F. KING: Senator, it is my understanding that this bill has the money that is available to fund the formula changes because of re-appraisal or something in the towns, rather than have a town take big hit one year, this would give them the chance to get that hit over a period of three years.

SENATOR BLAISDELL: It is still going to take the hit, Senator King, but it would be about \$200,000 a year for Winchester instead of \$643,000.

SENATOR F. KING: Just so I understand before I vote on this bill, the city of Berlin lost one year, \$754,000 in aid, rather than losing this \$754,000 they would have lost that . . . that would have been cranked down over three years so that they would have some chance to make some adjustments in their operation over a period of time, rather than all of a sudden wake some morning and find that they have lost three quarters of a million dollars. Is that correct?

SENATOR BLAISDELL: That is all that I ask. That is all that it does really. That is it.

SENATOR RUBENS: I rise to speak in opposition to the ought to pass motion. In the town of Winchester, if let's say that a handful of very costly special education students were to move into that community at any one year, the effect of this bill would also be to reduce the rate at which aid money from the state would go to Winchester. So it could be harmful as

well as helpful. To the town, it could be harmed as a result of this. I would have to argue the opposite justification that you provide for the towns to be helped. It simply distorts the flow of aid funding such that it doesn't go to the towns that need it in the year that they need it, that is why I oppose this substitute motion of ought to pass.

SENATOR BLAISDELL: The town of Winchester right now has \$1 million in Special Aid Funds that they have to bring up. That is in the budget. It is \$1 million that they have to come up with.

Question is on the minority report of ought to pass.

Motion failed.

Question is on the majority report of inexpedient to legislate.

A roll call was requested by Senator J. King.

Seconded by Senator Blaisdell.

The following Senators voted Yes: Gordon, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Barnes, Russman, Danais, Delahunty, Keough.

The following Senators voted No: F. King, Blaisdell, Pignatelli, Larsen, J. King, Shaheen, Cohen.

Yeas: 17 - Nays: 7

Committee report of inexpedient to legislate is adopted.

HB 1565-FN, an act changing the age of qualification for services in certain cases under RSA 169-D for children in need of services, relative to the confidentiality of information and attendance at proceedings under the child protection act and relative to children's services. Finance Committee. Vote: 6-0. Ought to pass. Senator Colantuono for the committee.

SENATOR COLANTUONO: HB 1565 changes the age in certain cases, relative to children in need of services and removes children who are subject to compulsory school attendance and who are truant from school from the definition of a child in need of services. The bill also contains all of the provisions of HB 1442. The Finance Committee took a look at the finance issues and found that they were all concerning savings to the state and not any expenditures, so we recommend that the bill ought to pass.

Adopted.

Senator F. King in favor of the motion ought to pass.

Senator Larsen offered a floor amendment.

5928L

Floor Amendment to HB 1565-FN

Amend the title of the bill by replacing it with the following:

AN ACT

changing the age of qualification for services in certain cases under
RSA 169-D for children in need of services and
relative to children's services.

Amend the bill by deleting sections 3 and 4 and renumbering the original sections 5-14 to read as 3-12, respectively.

Amend the bill by replacing section 12 with the following:
12 Effective Date.

I. Section 11 of this act shall take effect on the first day of the month following its passage.

II. Sections 1 and 2 shall take effect January 1, 1997.

III. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill:

I. Changes the age in certain cases relative to children in need of services and removes children, subject to compulsory school attendance, who are truant from school from the definition of a child in need of services.

II. Deletes the education requirement as criteria in determining incapacity of a parent.

III. Requires a valid waiver of the appointment of an attorney for a child in need of services.

IV. Requires the commissioner of health and human services to make quarterly reports to the public institutions, health and human services committee. Currently, the commissioner must make such reports to the house judiciary and family law committee and the house finance committee.

V. Revises the provision relative to parental incapacity in child protection cases.

VI. Provides that the judicial member of the review panel under RSA 169-G shall make any substituted order in accordance with the decision of the review panel.

VII. Provides that the cost for the appointment of guardians ad litem for neglected or abused children shall be paid by the indigent defense fund.

VIII. Clarifies timing of hearings on ex parte orders for guardianship of a minor.

IX. Specifies the evidentiary standard for determining guardianship of a minor.

X. Repeals the provision relative to the appointment of guardians ad litem and court appointed special advocates (CASA) guardians in child protection cases.

SENATOR LARSEN: You may recall that when this was sent down to Finance, we tried to point out to you something which Finance really shouldn't have been addressing. This was a policy change that Finance, as a result, didn't really discuss yesterday, but this amendment would remove section four of the bill that you are considering, HB 1565. Section four is the section that would release a person alleged to have been abused or neglected as a child from confidentiality, and permit the alleged abuser to discuss the case. We got an issue again of fairness here. We need to balance the rights of a child with the rights of an accused abuser. We need to consider the rights of a child to live free from abuse and neglect against the rights of an individual alleged to have abused or neglected the child. You cannot allow an alleged abuser to go out and break the confidentiality, and yet, maintain all of those who know the case on the other side, and require them to remain silent. You have a problem in doing this. You have lost the balance that you need. So the amendment that you have in front of you, simply removes that section four and also section three because those are the parts that deal with the confidentiality issue. As I said, Senate Finance didn't consider this, it is up to you to consider this amendment. You need to think through whether some-

one who has been accused to have abused someone, should be able to go back into the community and talk on their points, and yet, the person who has heard the other side of it, is prohibited from talking. It makes no sense to add this on this bill. It makes no sense for us to bring this about. There is a study committee, Juvenile District Court Task Force which is looking at all aspects of the juvenile statutes, and we may get a recommendation on changing some of the advocacy issues in section three, but I don't believe that we understand the full proceedings of juvenile proceedings and we need to wait for the report of the District Court Task Force. I have a letter here from the Department of Children, Youth and Family services opposing these two amendments to HB 1565 and stating their concerns whether there is the appropriate balance, and stating their concerns saying, "the division believes that while an affirmative right to a lay advocate may be appropriate, addition to the child protection process, to create such a right without further definition of the advocate's role and responsibility is unwise." The department says "no" on this. Let us give it a little time. It can come back again next session. Let us not rush through this. What we are dealing with here is the rights of children and we need to protect those rights and make sure that we are doing right by them. So I urge you to adopt this floor amendment and allow for this issue to come up again next session after it has been fully considered. Thank you.

SENATOR RUBENS: I am confused by Senator Larsen's presentation on the amendment. The amendment proposes deleting section three which would have the effect of removing the right that the accused would have to have an advocate present at a proceeding?

SENATOR LARSEN: That is correct, because the department believes that if you are going to have an advocate, you need to outline the roles of that advocate and the duties and the responsibilities.

Question is on the floor amendment.

A roll call was requested by Senator Larsen.

Seconded by Senator Cohen.

The following Senators voted Yes: Blaisdell, Pignatelli, Larsen, J. King, Russman, Shaheen, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Barnes, Danais, Delahunty, Keough.

Yeas: 7 - Nays: 17

Floor amendment failed.

Recess.

Out of recess.

Question is on the motion of ordering to third reading.

Ordered to third reading.

HB 1567-FN-A, an act making a supplemental appropriation to fund the position of state curator and relative to supplemental appropriations for youth development services. Finance Committee. Vote: 6-0. Ought to pass with amendment. Senator Blaisdell for the committee.

5912L

Amendment to HB 1567-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

making a supplemental appropriation to fund the position of state curator and revising certain supplemental appropriations for youth development services.

Amend the bill by replacing all after the enacting clause with the following:

1 Supplemental Appropriation. There is appropriated the sum of \$40,274 for the fiscal year ending June 30, 1997, to the department of cultural affairs to be used for the salary, benefits, and travel expenses of the state curator. This sum is in addition to any other sums appropriated to the department of cultural affairs. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

2 Youth Development Services; Supplemental Appropriations. Amend the following PAU's as inserted by 1995, 307 as follows:

	FY 96	FY 97
05, 04, 01, 02, 04		
Insert:		
18 Overtime	27,500	
05, 04, 01, 03, 02		
Strike Out:		
18 overtime		30,791
Insert:		
18 overtime	13,750	30,791
05, 04, 01, 03, 03		
Strike Out:		
18 overtime		28,090
Insert:		
18 overtime	13,750	28,090
05, 04, 01, 02, 03		
Insert:		
23 utilities	69,739	50,000
3 The legislative budget assistant shall have the authority to adjust the budget totals as necessary.		
4 Effective Date.		
I. Sections 2 and 3 of this act shall take effect upon its passage		
II. The remainder of this act shall take effect July 1, 1996.		

AMENDED ANALYSIS

This bill makes a supplemental appropriation for the fiscal year ending June 30, 1997, to be used for the salary of the state curator, department of cultural affairs.

This bill also revises certain supplemental appropriations relative to youth development services.

SENATOR BLAISDELL: Mr. President, this bill as amended by the Senate Finance Committee appropriates the sum of \$40,274. for the fiscal year ending June 30, 1997, to the Department of Cultural Affairs to be used for the salary benefits and traveling expense for the state curator.

This amendment corrects the appropriation to fully fund the position. We have millions of dollars worth of articles in the state of New Hampshire that are all over the place. This was the reason, they were only half funded, and Finance felt that it was in the best interest of the state of New Hampshire to protect these valuable assets that we have. We may need to sell them someday to balance the budget. The next thing, we revised some supplemental appropriations to the Youth Development Services by transferring the fiscal 1996 appropriation from temporary salaries and transfers it to overtime. The reason for doing so, was that the department had hoped to fast-track this bill so that they would be able to hire temporary people to work in fiscal year 1996, since this did not happen, their current employees have been earning compensatory time, and by moving this money to overtime, they can be paid for their work. Section two and three of this bill takes effect upon passage. The remainder of the act takes effect July 1, 1996. The recommendation is ought to pass with amendment.

Amendment adopted.

Ordered to third reading.

HB 1576-FN, an act relative to extended detoxification of pregnant and postpartum heroin addicts utilizing the controlled drug methadone and relative to lead paint insurance coverage and lead paint risk reduction. Finance Committee. Vote: 6-1. Ought to pass. Senator Lovejoy for the committee.

SENATOR LOVEJOY: Mr. President, HB 1576 allows extended detoxification of pregnant and postpartum heroin addicts utilizing the controlled drug methadone. Under this bill such extended detoxification shall be terminated in five years. The bill also establishes lead paint risk education procedures which may be carried out by a property owner. Such owner may then qualify for certain insurance coverage. This portion of the bill resulted from a study committee established under 1995 (306). The Finance committee on a 5 - 1 vote, recommends ought to pass.

Recess.

Senator Russman in the Chair.

SENATOR LARSEN: I simply have to rise to speak against this bill having the lead paint issue on it. We know, as you heard earlier, that we need to introduce a program for heroin addicted mothers to level out their blood levels with methadone to allow the fetuses to survive pregnancy and get to a point when they can reach treatment. This bill is really important that we pass it. It is important for all of those unborn children to be able to enter the world and to get treatment for the addiction that their mother has. Adding the lead paint bill to this is a real concern. We know that there are 22,000 children in New Hampshire at risk for lead. We know that 6,500 children already have lead poisoning and only 30 percent of the preschoolers in this state are screened for lead. That is a concern because we aren't going to know if disrupting this lead in the home or apartments of this state would cause further poisoning of our children, we won't know in time. It is a concern that we are not maintaining the proper balance between protecting the health of the children of this state and protecting the availability of affordable housing. I think that we are close to getting a lead paint bill, I am not convinced that this lead paint bill is the right one. I have real concerns that we are tacking onto a bill which must pass for the health of heroin addicted mothers and

their unborn children. So I urge you to consider this as you proceed to Committee of Conference on this bill. I urge you to look again at this lead paint process and wonder if it isn't time that we continue one more year and get even closer to an agreement on what protects the health of the children of this state. Thank you.

Adopted.

Ordered to third reading.

HB 1577-FN, an act relative to expenses for voluntary or court dispositional service plans and relative to child support. Finance Committee. Vote: 5-0. Ought to pass with amendment. Senator Podles for the committee.

5952L

Amendment to HB 1577-FN

Amend the title of the bill by replacing it with the following:

AN ACT

allowing a waiver for adoptive parent liability for expenses
for voluntary or court dispositional service plans
and relative to child support.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Adoptive Parents of Delinquent Children. Amend RSA 169-B:40 by inserting after paragraph VII the following new paragraph:

VIII. Upon request by the adoptive parent of a child whose birth parents relinquished their parental rights to the department or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, the state, acting through the commissioner, may waive its right of action against such adoptive parent for all or a portion of the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.

2 New Paragraph; Adoptive Parents of Abused or Neglected Children. Amend RSA 169-C:27 by inserting after paragraph VII the following new paragraph:

VIII. Upon request by the adoptive parent of a child whose birth parents relinquished their parental rights to the department or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, the state, acting through the commissioner, may waive its right of action against such adoptive parent for all or a portion of the expenses of services, placements and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.

3 New Paragraph; Adoptive Parents of Children in Need of Services. Amend RSA 169-D:29 by inserting after paragraph VII the following new paragraph:

VIII. Upon request by the adoptive parent of a child whose birth parents relinquished their parental rights to the department or the parental rights of whose birth parents were terminated pursuant to a pe-

tition brought by the department, the state, acting through the commissioner, may waive its right of action against such adoptive parent for all or a portion of the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.

4 Application of 1995, 308:60, 73, and 85; State's Right of Action for Recovery of Expenses and Transaction Costs for a Minor's Support. The provisions of RSA 169-B:40, I(c); 169-C:27, I(c); and 169-D:29, I(c) as amended by 1995, 308:60, 308:73, and 308:85, shall not be applied retroactive to July 1, 1995.

5 Parental Intentional Interference With Custody or Visitation; Grounds for Modification. RSA 458:17, V is repealed and reenacted to read as follows:

V. Intentional interference by a parent who has permanent primary physical or permanent joint or shared physical custody with the visitation or custodial rights of the other parent shall be a basis for modifying physical custody without the necessity of showing harm to the child if the court finds that a change of physical custody would be in accordance with the best interests of the child. Except as provided in this paragraph, nothing in this section shall be construed to alter the standard for modification of a custody decree affecting physical custody of the child or children.

6 New Paragraph; Expedited Hearing on Issues of Interference With Rights of Physical Custody, Visitation, or Nonpayment of Child Support. Amend RSA 458:17 by inserting after paragraph XIV the following new paragraph:

XV. Any motion for contempt of a court order regarding physical custody or visitation or nonpayment of child support, if filed by a parent who has custodial or visitation rights pursuant to the court order, shall be reviewed by the court within 30 days.

7 New Paragraph; Parental Involvement Encouraged. Amend RSA 458-C:1 by inserting after paragraph III the following new paragraph:

IV. Involvement of both parents in their children's lives should be encouraged. Child support obligations shall be adjusted to reflect the financial impact on a non-custodial parent's household expenses when the children spend a significant amount of time in that parent's household.

8 Definition of "Adjusted Gross Income;" Gross Income Less Actual Full Amount of Medical Insurance. Amend RSA 458-C:2, I to read as follows:

I. "Adjusted gross income" means gross income, less:

(a) Court-ordered or administratively ordered support actually paid to others, for adults or children[;].

(b) [Fifty percent of] The actual amount paid for medical insurance coverage for the minor children of the parties[; and].

(c) Mandatory, not discretionary, retirement contributions.

(d) Actual work-related child care expenses up to no more than an annual total of \$5,000 for one child, \$9,000 for 2 children, and \$12,000 for 3 or more children.

(e) Fifty percent of actual self-employment tax paid.

(f) Actual state income taxes paid.

9 Definition of "Minimum Support Order," Exception Added; Definition of "Net Income," State Income Tax Deleted and Medicare Added. Amend RSA 458-C:2, V and VI to read as follows:

V. "Minimum support order" means an order of support equal to \$50 per month, ***except where custodial adjustments produce an order of support for a lower amount.***

VI. "Net income" means the parents' combined adjusted gross income less [state income taxes actually paid, and] standard deductions published and adjusted on an annual basis by the department of health and human services, for:

(a) Federal income tax[; and] ***which amount shall be standardized and shall be based on the amount an employer withholds from a single person's monthly income who has claimed a withholding allowance for 2 dependents.***

(b) F.I.C.A. ***which shall be calculated based on the employee's contribution of the social security tax and the employee's portion of the actual medicare tax paid.***

10 New Paragraph; "Total Support Obligation" Changed to "Basic Support Obligation". Amend RSA 458-C:2 by inserting after paragraph I the following new paragraph:

I-a. "Basic support obligation" means net income multiplied by the appropriate percentage derived from RSA 458-C:3, I and allocated between the parents in proportion to their respective incomes.

11 New Paragraph; "Overnights" Defined. Amend RSA 458-C:2 by inserting after paragraph VIII the following new paragraph:

VIII-a. "Overnights" means the court-ordered overnight periods that the children stay at each parent's home, except to the extent the court in its reasonable discretion finds otherwise in order to maintain fairness and equity. All findings of the court shall be in writing.

12 Child Support Formula Revised. RSA 458-C:3 is repealed and re-enacted to read as follows:

458-C:3 Child Support Formula. The amount of each parent's child support obligation shall be calculated as follows:

I. The basic support obligation shall be derived by subtracting from the father and mother's combined adjusted gross income the amount of the standard deductions for federal income tax and FICA/Medicare withholding, and multiplying that amount by the following appropriate percentage based on the number of children for whom a duty of support is owed in accordance with the child support guideline calculation table adjusted and published on an annual basis by the office of child support enforcement services:

Number of Children	Percentage of Net Income
1	25 percent
2	33 percent
3	40 percent
4 or more	45 percent

II. The basic support obligation shall be divided between the parents in proportion to their respective incomes to determine the basic parental support obligation.

III. If the court has ordered overnight physical custodial periods or visitation, each parent's support obligation shall be computed as follows:

(a)(1) Multiply the basic support obligation of each parent by 1.5 to determine the shared custody basic obligation.

(2) Determine the percentage of time the child spends with each parent by dividing the number of court-ordered overnights with each parent by 365.

(b) Each parent's child support obligation shall be equal to the amount determined for that parent in subparagraph (a)(1) multiplied by the percentage of time the child will be in the custody of the other parent as determined in subparagraph (a)(2).

(c) The parent with the larger obligation (the obligor) shall pay to the parent with the smaller obligation an amount equal to the difference between the 2 support obligations as determined in subparagraph (b). The parent with the smaller support obligation shall not be required to make support payments.

(d) If the amount of support to be paid by the obligor under subparagraph (c) exceeds the obligor's basic support amount, the support order shall equal the obligor's basic support obligation.

IV. Self-support reserve and minimum child support obligation.

(a) If the obligor parent's gross income is less than the self-support reserve and the court has found that the obligor is not voluntarily unemployed or voluntarily underemployed, the court shall order the child support obligation in the amount of a minimum support order.

(b) If the obligor parent's gross income is greater than the self-support reserve but payment of the order as calculated under this chapter would reduce the obligor parent's income below the self-support reserve, the obligor parent's share of the total support obligation shall be presumed to be the difference between the self-support reserve and that parent's adjusted gross income, but in any event shall be no less than the amount of a minimum support order.

V. All child support obligations calculated pursuant to this chapter shall be rounded to the nearest whole dollar.

13 "Natural or Adopted Children" Added. Amend RSA 458-C:5, I(c) to read as follows:

(c) The economic consequences of the presence of stepparents [or, stepchildren, ***or natural or adopted children***;

14 Mediated Child Support Agreements and Educational Expenses Added. Amend RSA 458-C:5, I(h) and (i) to read as follows:

(h) Split [or shared] custody arrangements;

(i) Child support agreements mediated by a marital mediator certified under RSA 328-C;

(j) The economic consequences to either party of voluntarily providing for the educational expenses of a child;

[(i)] ***(k)*** Other special circumstances found by the court to avoid an unreasonably low or confiscatory support order, taking all relevant circumstances into consideration.

15 Repeal. The following are repealed:

I. RSA 458-C:2, XI, relative to the definition of total support obligations.

II. RSA 458-C:4, III, relative to consideration of either party's stepchildren when applying the child support guidelines.

16 Effective Date.

I. Sections 5-15 of this act shall take effect January 1, 1997.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows a waiver for adoptive parents for the expenses for voluntary or court dispositional service plans, and provides application provisions for 1995, 306:60, 73, and 85 and the provisions set forth in this bill.

This bill also revises certain provisions concerning child support, custodial rights, and visitation.

Recess.

Senator Delahunty in the Chair.

SENATOR PODLES: Mr. President, HB 1577 insures that services provided before July 1, 1995, could not be charged for reimbursement. That means no retroactivity. It also provides that adopted parents could be exempted from the reimbursement provision. The reimbursement in the bill goes back to current law which requires full reimbursement for services provided. Lastly, it includes the provisions of SB 648, an act relative to child support. The Finance Committee recommends ought to pass with amendment.

Amendment adopted.

Senator Pignatelli offered a floor amendment.

5939L

Floor Amendment to HB 1577-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to expenses for voluntary or
court dispositional service plans.

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Intent. The legislature intends for this act to apply to all cases open for reimbursement on or after July 1, 1995.

2 Delinquent Children; Parental Liability for Services Recoverable for One Year. RSA 169-B:40, I(c) is repealed and reenacted to read as follows:

(c) The state shall have a right of action over for such expenses against the parents and the right to require parents to assign to the state any insurance benefits that may be available to pay for all or a portion of the services provided. The department shall request reimbursement for such expenses from parents and shall request assignment to the state of any insurance benefits that may be available to pay for all or a portion of the services provided. The court shall require the parent to submit a financial statement annually to the court, upon which the court shall make an order as to reimbursement to the state such as may be reasonable and just, based on the ability to pay of the parent. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance benefits available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per-month or per-week basis and shall continue from the time the services begin until 3 years beyond the time such services end, unless such reimbursement is fully paid prior to the end of the 3-year period. The court's jurisdiction to order reimbursement shall continue until the obligation to reimburse has been fulfilled. If the court does not issue a reimbursement order, the court shall issue written findings explaining why such reimbursement is not ordered. Notwithstanding the provisions of RSA 169-B:40, I(a), the court shall give preference to providers who qualify for third-party payment under the minor's insurance coverage, if any, if the provider can be certified within a reasonable time. The parents shall have the right to be relieved from any expenses if they can show that they had insurance in effect which denied payment based

on the failure of the department or its agents to comply with reasonable prerequisites for coverage. The state shall not seek reimbursement from the parents for expenses incurred prior to an adjudication which later determines that the petition was not substantiated.

3 New Paragraph; Adoptive Parents of Delinquent Children. Amend RSA 169-B:40 by inserting after paragraph VII the following new paragraph:

VIII. Upon request by the adoptive parent of a child whose birth parents relinquished their parental rights to the department or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, the state, acting through the commissioner, may waive its right of action against such adoptive parent for all or a portion of the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.

4 Abused or Neglected Children; Parental Liability for Services Recoverable for One Year. RSA 169-C:27, I(c) is repealed and reenacted to read as follows:

(c) The state shall have a right of action over for such expenses against the parents and the right to require parents to assign to the state any insurance benefits that may be available to pay for all or a portion of the services provided. The department shall request reimbursement for such expenses from parents and shall request assignment to the state of any insurance benefits that may be available to pay for all or a portion of the services provided. The court shall require the parent to submit a financial statement annually to the court, upon which the court shall make an order as to reimbursement to the state such as may be reasonable and just, based on the ability to pay of the parent. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance benefits available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per-month or per-week basis and shall continue from the time the services begin until 3 years beyond the time such services end, unless such reimbursement is fully paid prior to the end of the 3-year period. The court's jurisdiction to order reimbursement shall continue until the obligation to reimburse has been fulfilled. If the court does not issue a reimbursement order, the court shall issue written findings explaining why such reimbursement is not ordered. Notwithstanding the provisions of RSA 169-C:27, I(a), the court shall give preference to providers who qualify for third-party payment under the minor's insurance coverage, if any, if the provider can be certified within a reasonable time. The parents shall have the right to be relieved from any expenses if they can show that they had insurance in effect which denied payment based on the failure of the department or its agents to comply with reasonable prerequisites for coverage. The state shall not seek reimbursement from the parents for expenses incurred prior to an adjudication which later determines that the petition was not founded.

5 New Paragraph; Adoptive Parents of Abused or Neglected Children. Amend RSA 169-C:27 by inserting after paragraph VII the following new paragraph:

VIII. Upon request by the adoptive parent of a child whose birth parents relinquished their parental rights to the department or the pa-

rental rights of whose birth parents were terminated pursuant to a petition brought by the department, the state, acting through the commissioner, may waive its right of action against such adoptive parent for all or a portion of the expenses of services, placements and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.

6 Children in Need of Services; Parental Liability for Services Recoverable for One Year. RSA 169-D:29, I(c) is repealed and reenacted to read as follows:

(c) The state shall have a right of action over for such expenses against the parents and the right to require parents to assign to the state any insurance benefits that may be available to pay for all or a portion of the services provided. The department shall request reimbursement for such expenses from parents and shall request assignment to the state of any insurance benefits that may be available to pay for all or a portion of the services provided. The court shall require the parent to submit a financial statement annually to the court, upon which the court shall make an order as to reimbursement to the state such as may be reasonable and just, based on the ability to pay of the parent. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance benefits available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per-month or per-week basis and shall continue from the time the services begin until 3 years beyond the time such services end, unless such reimbursement is fully paid prior to the end of the 3-year period. The court's jurisdiction to order reimbursement shall continue until the obligation to reimburse has been fulfilled. If the court does not issue a reimbursement order, the court shall issue written findings explaining why such reimbursement is not ordered. Notwithstanding the provisions of RSA 169-D:29, I(c), the court shall give preference to providers who qualify for third-party payment under the minor's insurance coverage, if any, if the provider can be certified within a reasonable time. The parents shall have the right to be relieved from any expenses if they can show that they had insurance in effect which denied payment based on the failure of the department or its agents to comply with reasonable prerequisites for coverage. The state shall not seek reimbursement from the parents for expenses incurred prior to an adjudication which later determines that the petition was not true.

7 New Paragraph; Adoptive Parents of Children in Need of Services. Amend RSA 169-D:29 by inserting after paragraph VII the following new paragraph:

VIII. Upon request by the adoptive parent of a child whose birth parents relinquished their parental rights to the department or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, the state, acting through the commissioner, may waive its right of action against such adoptive parent for all or a portion of the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.

8 Application of 1995, 308:60, 73, and 85; State's Right of Action for Recovery of Expenses and Transaction Costs for a Minor's Support. The provisions of RSA 169-B:40, I(c); 169-C:27, I(c); and 169-D:29, I(c) as amended by 1995, 308:60, 308:73, and 308:85, shall not be applied retroactive to July 1, 1995, and any person chargeable by law and adversely affected by the retroactive application of such provisions shall receive notice of such from the resident county and such liability shall be recalculated on the basis of the provisions of this act. These provisions shall not apply where oral or written agreements for reimbursement were reached before August 1, 1995, between the state and the person chargeable by law.

9 Application of This Act. This act shall apply to all liabilities incurred under RSA 169-B:40, I(c); 169-C:27, I(c); and 169-D:29, I(c) as of July 1, 1995.

10 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill provides that parental liability for the expenses for voluntary or court dispositional service plans shall be recoverable for a period from the time the services begin until 3 years beyond the time such services end, and provides application provisions for 1995, 306:60, 73, and 85 and the provisions set forth in this bill.

SENATOR PIGNATELLI: I was really amazed when I looked at the amendment in the final version of 1577 this morning when I came in. It very lightly resembles what we heard in Judiciary. It has the extra baggage of that other non germane bill, attached to it still, even though it has been through Finance. What you are receiving now, is a floor amendment that I am offering and this would return the bill to the way that we had discussed it in Judiciary and decided by consensus that it ought to pass out of Judiciary. You may remember last time that we met, I spoke and Senator Cohen spoke, about the changes that were supposed to have appeared in the amendment that came to the floor and some of those changes were not in there. So this floor amendment is a reflection of the way that the bill should have come out of Judiciary when it came out for a vote on the Senate floor before it went to Finance and before 648, the child support guidelines bill was tacked onto it. As I said before, I object to the process whereby we tack on a bill that the other house has sent to study, and because we don't like that they have sent it to study, we are going to attach it to a bill that we know has to pass this time. This is not a good process to follow in making our laws for this state. This is not doing the people's business. I would urge you to vote for this floor amendment as you received it, and to let the child support guidelines go to study in the House. They are studying it, they are already meeting on it. They will come out with something, and we ought to let the process proceed as it is supposed to proceed. This is not Washington, D.C., this is New Hampshire and we ought to do things the New Hampshire way and we ought to pay attention to what people in this state are saying, they are disgusted with this kind of shenanigan that goes on in Washington all of the time. It goes on here during the last month of session, sometimes, but I have never seen it this bad as it has been the last week or two. I think that we ought to pass this floor amendment. It is a good bill. It is necessary for the parents in the state and the children in the state. I urge you to vote for this floor amendment as you receive it. Thank you.

SENATOR SHAHEEN: Senator Pignatelli, did I understand you to say that the amendment that we are looking at in our calendar has changed

the original bill, and I don't mean the bill that got tacked on dealing with support payments and etceteras, but the original bill HB 1577, was changed in Finance Committee from the way that it came out of Judiciary?

SENATOR PIGNATELLI: Yes.

SENATOR SHAHEEN: Could you explain to us what those changes are or perhaps Senator Podles would be the appropriate person to ask?

SENATOR PIGNATELLI: Yes, perhaps Senator Podles since she was on the Finance Committee and she can talk about what they did and perhaps why they did it. Thank you.

SENATOR PODLES: TAPE CHANGE in the bill and it goes back to current law. In the beginning, what the bill said, was that parents are responsible for the services that are given to the children. So we went back in the bill in the Senate, we put a cap on it for only three years, but in Finance, that cap was taken out. So they have to pay for all of the services that are given to the children. This is at the judge's discretion whether they can afford it or not. Maybe \$10 a week or \$5 a week or whatever it is.

SENATOR SHAHEEN: Senator Podles, does that mean that if we adopt this amendment as it comes out of Finance, that people like the constituents in my area who sent me a letter expressing their concern about the fact that they had just been given a bill for tens of thousands of dollars, are going to continue to get those kinds of bills, that they are then going to have to be responsible for?

SENATOR PODLES: They will be responsible for what they can afford. If they can afford \$10 a year, \$10 a month, then they will be asked to do so. That will be at the court's discretion and in the courts.

SENATOR SHAHEEN: But if we adopt this amendment, do we have any assurances that the court and Health and Human Services are not going to continue to administer the law as they have over the last year-and-a-half, and present parents, regardless of their ability to pay, with astronomical bills for those services that they can't afford?

SENATOR PODLES: Senator Shaheen, this is existing law. All that we did is go back to the existing law because of the department. That was the department that suggested it. The Finance Committee passed it that way. Going back to the existing law.

SENATOR SHAHEEN: Perhaps I am not making myself clear. In adopting this amendment, did the Finance Committee get assurance from either the courts or the Department of Health and Human Services that the law would be administered any differently so that people would not be presented with those huge bills for services rendered regardless of their ability to pay? I mean were there any assurances given to the legislature by either of those departments?

SENATOR PODLES: They could be exempted from reimbursement if they can't afford to give the money.

SENATOR SHAHEEN: But you didn't hear from the courts or the department?

SENATOR PODLES: The Department was there, Senator Shaheen. Somebody represented the department. Trishia was there.

SENATOR SHAHEEN: Did she indicate that they would in fact administer the law differently if we went back to it in its original form?

SENATOR PODLES: It will be administered the same way that it was before it came back to us.

SENATOR SHAHEEN: Thank you.

Recess.

Out of recess.

SENATOR COHEN: On HB 1577, what the Finance Committee did was to make a significant policy change. If you want to defeat HB 1577, then what you want to do is to vote for the amendment as in our calendar, that is doing away with HB 1577. I have certainly had letters from people who have been really hurt, really, really hurt by estates, short-sided policy of punishing people who have done nothing wrong. There are parents whose children have had difficulties and who have gone wrong, but the parents have done nothing wrong. There is no neglect, there is no abuse, they have been nothing but good parents, and yet, they are being punished. The Judiciary Committee worked on language to correct the situation, to limit the time payment to three years. That is in the amendment as drafted by Senator Pignatelli. This is what the committee agreed on. The Pignatelli amendment is what the committee agreed upon. This limits the period to three years. It doesn't continue to punish innocent people. To punish parents who have done nothing but tried to do the best for their children and for society. The Finance Committee is not there, as I understood it, to make policy change, but that is exactly what happened. If you want to support what the committee agreed to, support the Pignatelli amendment.

Question is on the floor amendment.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Cohen.

The following Senators voted Yes: Gordon, Blaisdell, Pignatelli, Larsen, J. King, Russman, Shaheen, Cohen.

The following Senators voted No: F. King, Johnson, Fraser, Rubens, Lovejoy, Currier, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Barnes, Danais, Delahunty, Keough.

Yeas: 8 - Nays: 16

Floor amendment failed.

Question is on ordering to third reading.

A division is requested.

Yeas: 15 - Nays: 7

Ordered to third reading.

HB 1584-FN-L, an act relative to the establishment of a DNA database and to the DNA testing of convicted sexual offenders. Finance Committee. Vote: 7-0. Ought to pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, the Department of Safety stated that a \$150,000 of federal funds may be available for start up costs which include equipment and renovations in

fiscal year 1997, the beginning of 1998 and each year thereafter, approximately \$20,000 of the consumable cost associated with the program would also be covered by federal funds. The Finance Committee recommends HB 1584 as ought to pass.

Adopted.

Ordered to third reading.

HB 1620, an act relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas, authorizing the services of a consultant to develop a prototype lease and making an appropriation therefor. Finance Committee. Vote: 6-0. Ought to pass. Senator Keough for the committee.

SENATOR KEOUGH: This bill clarifies what information is required to be included in any contract to lease Cannon Mountain and Mount Sunapee, with particular attention to the environmental impact of any lease. The bill also extends the reporting date of the study committee established in 1995 to November 1, 1996. The Finance Committee unanimously recommends HB 1620 as ought to pass.

Adopted.

Ordered to third reading.

HB 1623-L, an act authorizing school districts to establish revolving funds to finance certain programs, and relative to the printed materials revolving fund under the department of education, and increasing the appropriation therefor. Finance Committee. Vote: 6-0. Ought to pass. Senator Lovejoy for the committee.

SENATOR LOVEJOY: Mr. President, HB 1623 allows school districts to establish revolving funds for the purpose of providing funds for programs which are self supporting in whole or in part. Currently the school districts are not able to establish revolving funds even though they are supported primarily by the district and not the taxpayer. The bill also increases the maximum amount that the printed materials revolving fund in the Department of Education can reach from \$25,000 to \$50,000. This fund is also self-supporting and simply allows the department to carry a larger reserve. The Senate Finance Committee recommends ought to pass.

Adopted.

Senator Larsen offered a floor amendment.

5958L

Floor Amendment to HB 1623-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing school districts to establish revolving funds to finance certain programs; relative to the printed materials revolving fund under the department of education, and increasing the appropriation therefor; and directing the state department of education to notify the U.S. Department of Education that New Hampshire local school districts may apply directly for Goals 2000 funds.

Amend the bill by inserting after section 4 the following and renumbering the original section 5 to read as 6:

5 Notification Required; Goals 2000. The New Hampshire department of education shall notify the United States Department of Education that New Hampshire local school districts are authorized to apply directly to the United States Department of Education for Goals 2000 funds.

AMENDED ANALYSIS

This bill authorizes school districts to establish revolving funds for the purpose of providing moneys for school programs which are self-supporting in whole or in part.

This bill provides that the printed materials revolving fund under the department of education shall be nonlapsing, and increases the appropriation for such fund for fiscal years 1996 and 1997.

The bill also directs the state department of education to notify the U.S. Department of Education that New Hampshire local school districts may apply directly to the U.S. Department of Education for Goals 2000 funds.

SENATOR LARSEN: The floor amendment which all of you now have was prompted by reading today's Concord Monitor, and I understand that it is in a number of the other newspapers, saying that Goals 2000, according to recent changes in the federal budget act, can now be applied for, those monies can now be applied for directly by local school districts. They also apparently added \$350 million to the fund. So what we have is a question, and I understand that the question is "the state has to authorize local school districts to apply directly for these funds." They can't just write to Washington now, but they need that state approval. There is a question of . . . they also have to make that application by next Friday. The question is "how can we act most directly to facilitate local school districts applying directly for the funds and maintaining the local control that they are seeking, allowing each local school district to make the decision on what the funds would be used for and allowing each local school district to make that application directly." They don't have to apply for these. They get to examine it under local control and apply directly. Now during the presidential campaign, a number of people said that is the way to go. Senator Specter, who some of you supported, endorsed this change. But what we have now has been passed into law and we have a very short time frame to get Goals 2000 for local school districts to be able to get Goals 2000 money. This is a sufficient pot of money for some schools. In my district, Pembroke needs these monies desperately for computers. Your districts may choose to use it for other things, but all of you who have said over the years that you support local school districts having local control, we need to enable them to do this because they can't just write to Washington and get those monies. We must encourage the department to act quickly. This amendment to HB 1623 states "The New Hampshire Department of Education shall notify the United States Department of Education that New Hampshire local school districts are authorized to apply directly to the United States Department of Education for Goals 2000 funds." Let's move this quickly. Let's get this as an amendment onto a bill which is bound to pass both houses and let's make this happen. It is local control at its best. Let's give them the ability to control their own destiny is. I urge you to vote yes on this amendment.

SENATOR RODESCHIN: Senator Larsen, can you tell me how this relates to the Goals 2000 that the Senate passed just recently?

SENATOR LARSEN: It is very similar in that the article, I understand, states that the changes do away with the "strings" that many people have objected to. It enables the local school districts to go straight for those monies using their own ability to analyze what they want to use the monies for. So the very same "strings" that many people had concerns about, are removed through this process and we are allowing local school districts to apply for that money.

SENATOR RODESCHIN: The "strings" that the amended version of Goals 2000 that we passed, are removed from your amendment? The "strings" that I am referring too, I guess, are the "strings" that are attached to the Goals 2000 in the federal act?

SENATOR LARSEN: Could you state your question again?

SENATOR RODESCHIN: The "strings" that are in the Goals 2000 federal act, are they removed from amendment?

SENATOR LARSEN: My amendment, one of the concerns that people had was that Goals 2000 . . . some of the "strings" were the outlines of the many requirements in Goals 2000. Not all of us thought those were "strings," but what it does is, as I understand it, that congress passed this enabling direct application, and each school district could then decide if they wanted to apply for them. They would review what the remaining requirements are and make the decision themselves.

SENATOR RODESCHIN: Thank you.

SENATOR WHEELER: This new version of the bill, has it eliminated the requirement for school based health clinics?

SENATOR LARSEN: Senator, there never was a requirement for school based health clinics. That was given as an example in Goals 2000, and all of those people who have reviewed Goals 2000 have agreed that all of those experts that I have heard about who reviewed it in the field of education, have agreed that that was given as an example of possible uses for Goals 2000 money and certainly does not apply to New Hampshire's application.

SENATOR WHEELER: Senator Larsen, does accepting this new Goals 2000 deal, does that still require that the federal gun-free school zone law version be in place in that school district?

SENATOR LARSEN: Each school district would decide whether they wanted to apply for these funds. I believe that each local school district will decide what the requirements are, and whether they want to apply for them. I am not aware that the federal school gun-free zone . . . I am not aware that it is addressed in Goals 2000 or through any mandates at all.

SENATOR WHEELER: Would the local school districts have to comply with the National Standards Boards and would this money still be directed to an outcome based education?

SENATOR LARSEN: The National Standards Board was removed long ago. That has been verified through the Department of Education. The outcomes based education is not . . . each school district gets to apply for it if they want these monies. Outcome based education is a local decision on how they operate their schools and it has nothing to do with the application of the school districts for Goals 2000 money.

SENATOR WHEELER: So you are saying that they would not have to comply with the outline for outcome based education to receive the money?

SENATOR LARSEN: Each school district will review the requirements in Goals 2000 and make a local decision whether they want that money. This is a local decision. We frequently advocate decisions being made on the local level, this enables each school district to review Goals 2000 and hash it out locally, and apply for it if they want to. They can reject it if they want.

SENATOR WHEELER: Thank you, Senator.

SENATOR JOHNSON: Senator Larsen, I guess one of my concerns is being a member of the local school board, you keep saying "local control" and I wonder what the voters in my district will have as far as local control over the school board. What procedure will take place in the city or town to guarantee that the people in that district either want it or don't want the school board to go for Goals 2000?

SENATOR LARSEN: I think local school boards are elected just like you and I, and if they are not responsive to the concerns of the people, then they ought not to be reelected. I think that every school board member that I have ever met, understands the process by which they get elected and that they are to represent the voters who sent them there. If the voters disagree with what the local school board is contemplating, they will let them know.

SENATOR JOHNSON: Senator Larsen, is there going to be a public hearing at the local levels, so that there will be input?

SENATOR LARSEN: Yes, your school district could certainly hold a public hearing on whether they should apply for the monies, of course. They hold public hearings on all sorts of issues, I assume, as they do in Concord.

SENATOR JOHNSON: Well I hope that it would be mandatory.

SENATOR LARSEN: If you wanted it to be mandatory, you would bring it to your school board and get them to make it a mandatory hearing. It is local control at its best.

SENATOR KEOUGH: Senator Larsen, your amendment says that the New Hampshire Department of Education shall notify the United States Department of Education that school districts are authorized to apply directly. Are school districts authorized to apply directly?

SENATOR LARSEN: If we pass this and it passes the House, this will send a message to the Department of Education that they need to act quickly.

SENATOR KEOUGH: Where in the amendment does it say that the legislature is authorizing the school districts to apply directly for Goals 2000?

SENATOR LARSEN: My understanding of the legislation is, that it is questionable who shall direct the local school districts that they are authorized to do it, but that some state department or some state entity needs to direct that it is alright for local school districts to apply. What we are doing is sending a message to our own state department of education that we think that it is alright.

SENATOR KEOUGH: It seems to me that there is a gap in here. There is nothing that directs anybody in state government to authorize local school districts to apply. It simply directs the board of education to notify the feds that this authorization exists. I don't know if it does or if it doesn't, but I do know that there is nothing in this bill that makes that authorization.

SENATOR LARSEN: The U.S. Department of Education is waiting for word from each state whether they want to authorize local school districts to apply directly. This would send our message from New Hampshire that at least from New Hampshire's point of view, it is okay if local school districts apply directly.

SENATOR KEOUGH: Is the drafting of this amendment based on someone's review of what Congress just did and a good understanding of that or is it based on reading the newspaper?

SENATOR LARSEN: The draft was prepared through discussions with people who are aware of the congressional mandates. It was.

SENATOR KEOUGH: In their opinion, this language is what is required?

SENATOR LARSEN: My understanding is, that the actual language has to come from the State Department of Education, and so this is only meant to direct the state Department of Education that we think that it is alright.

SENATOR KEOUGH: Thank you.

SENATOR LOVEJOY: Senator Larsen, did I hear you say that the deadline is Friday?

SENATOR LARSEN: That is my understanding.

SENATOR LOVEJOY: Wouldn't you agree that we probably . . . if this passed here, it has to go to the House and the House is meeting next Thursday and then it would have to go the governor?

SENATOR LARSEN: I understand that there is a very short time line for this, but I think that if the Senate passed this amendment, it would be a message, even if the House couldn't get it through during their schedule. It would be a message to the state Department of Education to proceed, because they can proceed even without us doing anything, is my understanding. This was meant to me an encouragement for them so that they didn't feel that they were somehow going against our wishes.

SENATOR LOVEJOY: Wouldn't you agree you, Senator Larsen, that this bill just doesn't have time to go through the process and so it is a futile bill because we can't get to the House or the governor by the time that the deadline is that you told us?

SENATOR LARSEN: There is probably no vehicle that we could get through the both houses and to the governor in time. This was meant to be a message. The House will have time to consider it next Thursday, but it was meant, primarily, to be a message that those of us here in the Senate, believe that local application for Goals 2000 money is a good idea.

SENATOR STAWASZ: Senator Larsen, I had the same thought as my colleague Senator Keough in asking about the genesis of this amendment, and I seem to recall earlier remarks by some of your colleagues about shenanigans. Given the fact that this can't possibly pass before the newspaper deadline and your wish to let the Department of Education know that they can do it without this, I would be glad to give you commissioner Twomey's phone number if you would like it?

SENATOR LARSEN: Senator Stawasz, I am not authorized to speak for the Senate, so in order to send the Senate message, we have to pass something today that is our message. This is the message that I would like to see us send to the state Department of Education, and that is all that they are probably going to get, if we are going to send them any kind of

message as a body, that would happen today. This is what we need to pass today. It will be a message to them and that is all that it will probably be because of deadlines, but if we want to send that message that local school districts should apply for Goals 2000 money, let's do it. Let's do it today.

SENATOR GORDON: This is more of a would you believe as a follow up to Senator Keough as well. My understanding of the legislation that we have already passed for Goals 2000 is that we have authorized the Department of Education or the state Board of Education to apply for the Goals 2000 money, is that correct?

SENATOR LARSEN: Yes.

SENATOR GORDON: What it appears that you have done in this, is that you have provided notification to the U.S. Department of Education that local school districts can apply, but my question is, where have we authorized the local school districts to apply? Haven't we missed a step?

SENATOR LARSEN: I don't believe that we have missed a step because it is the state Board of Education that has the ability to authorize a direct application. It does not require a full legislative approval, is my understanding of the way that the legislation passed in Washington.

SENATOR GORDON: Just as a follow up, it seems to me that school districts being subdivisions of the state, that they have to have enabling legislation and that we would have to pass something to enable them to apply before we provide to the U.S. Department of Education with notification that they have that authority?

SENATOR LARSEN: I guess that I can speak from a city perspective. We applied for community development block grants as a city from the city of Concord, I am not on the school board in Concord, but we applied for federal monies. I don't wait for the N.H. legislature before I vote on that. I apply for those CDBG monies in the same way. If the Department of Education authorizes it, I understand that they do not need legislative approval. If the N.H. Department of Education authorizes it, and notifies the Department of Education in Washington, local school districts can apply for federal monies. I believe that there are many processes by which local entities apply for federal monies without state authorization.

SENATOR GORDON: Okay.

SENATOR RUSSMAN: Here is an opportunity to have a bipartisan message sent. We can talk about technicalities to the law, to the wording of it. We all know the deadlines are routinely extended in many, many cases. I think that we have an opportunity to again, go on record as trying to send some property tax relief to our local communities. We always talk about sending the power back to the local communities, the local boards, and here is an opportunity to send that power back to them, and that we don't sit up here in Concord trying to tell each town and each school district what is in their best interest as big brother. This gives the opportunity to send that down to the local people, the local elected officials; and hopefully, give our constituencies some property tax relief. So if you want to do something that is good for your town and your community and your school district in terms of giving property tax relief, here is an opportunity to again, go on record as doing that.

SENATOR SHAHEEN: I am going to try and answer what I think was Senator Gordon's and Senator Keough's question about enabling and

authorization. It is my understanding that the federal legislation that just passed on Goals 2000, which was in fact introduced by Senator Specter as one of the sponsors, as the result of his being in New Hampshire and campaigning for the presidential primary. As you know, Goals 2000 was originally written so that the state had to have a plan and the state had to apply for it. Well given what happened in New Hampshire and at least one other state, Virginia, this legislation was introduced to say that if the state doesn't have a plan and doesn't want to authorize as a state for the state to apply for Goals 2000 money, then local school districts can do that directly without the authorization of the state; but if they are going to do that, they have to have an indication that that is okay from the state. So what this would do, is to say to our Department of Education, that while we may not think that the state ought to come up with a plan and do this directly, we still think that local school districts who want to do this, ought to have the opportunity to do it. I guess that I think that if we really support local control, and we really believe that education ought to be funded, operated, supervised and directed at the local level, then we ought to support this, because if the local district doesn't want any of the other guidelines in the Goals 2000 program, then they don't have to apply for it, but if they are willing to abide by whatever guidelines are there, or they like the opportunity to have those additional funds to do training or any kind of computer or technical programs, then they ought to have the ability to apply for that money and we, here in Concord, shouldn't prevent them from doing that. That ought to be a local decision, made at the local level. If we believe in local control, I would urge everybody to support this amendment.

SENATOR PIGNATELLI: I will be very brief because Senator Shaheen said a lot of what I was going to say and I don't want to repeat. We all talk a good game. I have seen many of us get up and talk about local control, so we talk a good game, now we get a chance to vote for the mother of all local control bills. My school district can't understand why we can't apply directly. One of our school board members was in Washington, D.C. last year to try to figure out a way that Nashua could apply for this money and they were told that they couldn't. We can't wait for something like this to pass so that we can apply. If Senator Johnson's district or Senator Wheeler's district or Senator King's district, either one, doesn't want to apply, they don't have to. There is nothing that says that they have to. This allows Nashua to apply for the funds. We know that there are no strings in Nashua, we know that, and we want a chance to apply for the money. We need to pass this in order to begin the process. I respectfully ask for a roll call on this vote.

SENATOR RUBENS: I will be very, very brief. I just want to point out that not one single senator in this room has read or apparently seen the congressional changes to the Goals 2000 law. I would view it as derelict to vote on participation or non participation by a local community prior to that having occurred. I view, for good or bad, the Goals 2000 law as it was to be a contract between the states, and before I could vote for this amendment, I would have to satisfy myself, that that contract as it may have been changed, as it hopefully has been changed, would no longer obligate the state to provide services and perform certain duties. I think that we have already seen in the law, as changed by congress, we have seen that they have removed the opportunity for learning standards, obviously someone out there, at the federal level, deems the opportunity to learn standards, one of several components of the Goals 2000 law, to

have been a string. There have been allegations that there are no strings attached, why would the congress have removed that one feature. So I would need to satisfy myself, that additional features that have been described as strings and probably are strings, may or may not have been removed; therefore, I argue for a vote against it.

SENATOR FRASER: I believe that I have two questions. The first question I would like to address to either Senator Shaheen or Senator Larsen. In simple terms that I can understand, what is the difference, what changes with this amendment versus what we did last week?

SENATOR LARSEN: Last week the only option that school districts had was to apply through . . . because the N.H. Department of Education allowed them to apply. Last week the only way that a local school district could apply would be to apply through the N.H. Department of Education. The bill that passed not long ago on Goals 2000 said that it was okay if the N.H. Department of Education applies for Goals 2000 money, to bring it into the state and redistribute it to the local school districts so long as they don't agree to any strings. This bill, the way that it passed congress now, says that it is enabling legislation, and it says that if we hear from the N.H. Department of Education, that you think that it is alright, we will accept applications directly from the city of Laconia school district. We will review their application after they have considered it directly. They don't have to go through the N.H. Department of Education to apply for those monies. So the difference is, that when we passed that bill not long ago, we didn't know that there was this option available. The state Department of Education is waivering, from what I understand, whether to authorize this and who is the entity to authorize it. This simply says "go ahead, the New Hampshire Senate thinks that it is alright that local school districts apply for Goals 2000."

SENATOR FRASER: Given to what you just said in your earlier testimony, that whether or not we take any action, because of the federal law that was adopted yesterday, the Department of Education could on its own . . .

SENATOR LARSEN: It was my understanding that it could.

SENATOR FRASER: Would it be more appropriate, rather than this bill, that we craft a resolution coming from the Senate given what Senator Lovejoy said about the timeline and getting it through to the House and the governor to sign it? If I understand our position, whatever our position may be, we just want to reaffirm what is in the federal law, maybe we should be doing that by a Senate Resolution. I don't know . . .

SENATOR LARSEN: That is certainly a possibility to do. This was another vehicle, a way to send the message. Given that we don't have that many session days left, the concern was that we do it in the fastest way possible, and a floor amendment was a way of sending the message.

SENATOR FRASER: Thank you.

SENATOR STAWASZ: Senator Pignatelli, I wonder if you could enlighten me as to how this is different from the earlier shenanigans that you complained about?

SENATOR SHAHEEN: Senator Rubens, I understand the point that you were making about your concern about that you had not yet read the legislation coming out of congress, but don't you believe that your local school district has the ability to look at the legislation and look at what they might be applying for, and make that judgement on their own, as to whether they would like to apply for that money?

SENATOR RUBENS: Absolutely. I am concerned, as I mentioned, that there may be residual contractual obligations or liabilities imposed upon the state as there were, in my opinion, in the Goals 2000 law as it existed before the congress changed it. I would have to satisfy myself with those liabilities imposed upon the state were removed in their entirety. This particular amendment here, does not exclude the state.

SENATOR SHAHEEN: Would you believe, that it is my understanding, that the state doesn't have any obligations if the local school districts apply for the money directly?

SENATOR RUBENS: I don't know whether that is the case or not.

Senator Barnes moved the question

Adopted.

Adopted.

Question is on the floor amendment.

A roll call was requested by Senator Pignatelli.

Seconded by Senator Larsen.

The following Senators voted Yes: F. King, Gordon, Currier, Blaisdell, Pignatelli, Larsen, J. King, Russman, Danaïs, Shaheen, Cohen.

The following Senators voted No: Johnson, Fraser, Rubens, Lovejoy, Rodeschin, Roberge, Wheeler, Stawasz, Colantuono, Podles, Barnes, Delahunty, Keough.

Yeas: 11 - Nays: 13.

Floor amendment failed.

Ordered to third reading.

SUSPENSION OF THE RULES

Senator Currier moved that Joint Rule 10(b) be so far suspended as to allow **HB 1442**, an act relative to childrens services, to remain in Senate Finance past the deadline and to be reported out by the Finance Committee no later than May 16, 1996.

SENATOR CARRIER: The budget balancing amendments that have been submitted to the Senate Finance Committee, are of the magnitude that the Senate Finance Committee felt very strongly about having additional time to offer a public hearing on all of the subject matter. The bill is approximately 36 to 40 pages long. It contains new language, some amended language and some previous language that was defeated in either or one of the bodies. As a result, if this motion passes, at some point down the road, after a public hearing and the final deliberations of Senate Finance, we will have to suspend the rules even further, which is, I believe, rule 5(b), to bring anything that comes out of the public hearing, in the deliberations, before the body. There are a number of issues that are in the bill, basically borrowing from the health care tradition fund, reduction of nursing home beds, extending the moratorium on the certificate of needs. There are issues regarding the pre screening of nursing home patients, the changing of the definition of "permanently and totally disabled," and obviously the bigger issues of the settlement issues regarding CHINS which is the dispositional authority for DCYF changing entitlement to a voluntary program, eliminating the de novo hearing process, although there has already been discussion about taking that

aspect out of . . . the de novo hearing process out of the bill already. There obviously is some significant impact to how we leave the session in terms of whether the budget will be, in fact, balanced or not in balance. Looking at all of these various aspects will be time consuming in regard to the impact that we will have as the result of the hearing and how this will affect all of the people that the proposed elements have on various agencies and organizations. So the Senate Finance Committee urges you to afford us the opportunity to bring to the public, an opportunity to voice their opinions on this. If this motion is successful in terms of suspending the rules, which I understand from reading the book, that it takes two-thirds to do this, that we will in fact, hold a public hearing at 10 a.m. on Tuesday morning in a room large enough to handle the crowd that I assume would be there. So I believe that I have covered all of the bases in regard to the issue. I urge the full Senate to support the suspension of the rules.

SENATOR F. KING: Senator Currier, is the bill available for us to take a look at?

SENATOR CURRIER: Yes, the bill is available for people to look at. From a procedural standpoint, I am not sure who they get the copies from. I was just informed that you could obtain a copy from room 120, Senate Finance.

SENATOR F. KING: When?

SENATOR CURRIER: Right after this session and we make copies of them.

SENATOR F. KING: Thank you.

SENATOR BLAISDELL: I rise in strong support of the suspension of the rules as offered by Senator Currier. I commend the Senate Finance Chairman and the members of the Senate Finance Committee for doing this, but most of all, it is the integrity of the Senate that we are talking about. I commend the Senate President for being a part of this. Anyone that wants to take him apart for doing this, they are wrong. This is the proper approach to doing this kind of a bill, to give the proper notice and have a hearing on a bill of this nature, and let the chips fall where they may. I think the Senate is doing the right thing. It goes to the very core and heart of the integrity of this Senate.

Adopted unanimously.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

SB 4-FN, relative to the time allowed for postsurgical recovery.

5789L

COMMITTEE OF CONFERENCE REPORT ON SB 4-FN

The committee of conference to which was referred Senate Bill 4-FN, An Act relative to the time allowed for postsurgical recovery having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing all after section 6 with the following:

7 Ambulatory Surgical Facilities. Amend RSA 151-C:2-a to read as follows:

151-C:2-a Ambulatory Surgical Facilities.

*I. An ambulatory surgical facility [shall not] **licensed on or before July 1, 1996, may** provide 2 beds [or other accommodations] for the overnight stay of patients, **not to exceed 24 hours**. An individual patient shall be discharged in an ambulatory condition without danger to the continued well-being of the patient or shall be transferred to a hospital.*

*II. An ambulatory surgical facility **licensed after July 1, 1996**, shall not provide beds or other accommodations for the overnight stay of patients. An individual patient shall be discharged in an ambulatory condition without danger to the continued well-being of the patient or shall be transferred to a hospital.*

8 Ambulatory Surgical Facilities. Amend RSA 151-C:2, II to read as follows:

II. An ambulatory surgical facility [licensed after July 1, 1996,] shall not provide beds or other accommodations for the overnight stay of patients. An individual patient shall be discharged in an ambulatory condition without danger to the continued well-being of the patient or shall be transferred to a hospital.

9 Ambulatory Surgical Facility Pilot Program. The health services planning and review board (board) shall establish a 2-year ambulatory surgical facility pilot program to study the need for and efficiency of overnight beds in ambulatory surgical facilities. This pilot program shall terminate July 1, 1998. Ambulatory surgical facilities licensed by the state of New Hampshire on or prior to July 1, 1996, which elect to provide overnight stays under RSA 151-C:2-a, I shall participate in the pilot program by notifying the board and fulfilling licensure requirements established in accordance with RSA 151. The commissioner of health and human services shall adopt rules, pursuant to RSA 541-A, regarding quality and safety standards for overnight beds in ambulatory surgical facilities. The board shall require participating facilities to submit utilization and financial data in order for the board to complete its study. Upon completion of the pilot program, the board shall issue a report to the governor, the president of the senate, the speaker of the house, the senate clerk, the house clerk, and the state library regarding the future need, if any, for overnight beds in ambulatory surgical facilities.

10 Repeal. RSA 151-C:2-a, I, relative to overnight stays, is repealed.

11 Effective Date.

I. Sections 8 and 10 of this act shall take effect July 1, 1998.

II. The remainder of this act shall take effect July 1, 1996.

*Conferees on the
Part of the Senate
Sen. Danaïs, Dist. 20
Sen. Blaisdell, Dist. 10
Sen. F. King, Dist. 1*

*Conferees on the
Part of the House
Rep. R. Foster, Carr. 10
Rep. Ziegler, Belk. 5
Rep. Sullens, Hills. 33
Rep. Haettenschwiller, Hills. 29*

AMENDED ANALYSIS

This bill clarifies the law relative to overnight stays and ambulatory facilities under RSA 151-C.

The bill establishes a 2-year pilot program relative to ambulatory surgical facilities. During the pilot program period, an ambulatory surgical

facility licensed on or prior to July 1, 1996, may provide 2 beds for overnight accommodation of patients. The commissioner of health and human services is directed to adopt rules regarding the pilot program.

SENATOR DANAIS: The Committee of Conference Report of SB 4 as it was just passed out in front of you has a change. The third paragraph "Amend the bill by replacing all after section 6" is an error. That should state "all is going to be amended after section 1." So that is the reason why we are not concurring and we are going to go back to the Committee of Conference and have a re-concurrence on that technical change.

Senator Danais refused to adopt the Committee of Conference report and requests a new Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Danais, Blaisdell, F. King.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 515, relative to venue for arraignment and bail of defaulters.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 515, relative to venue for arraignment and bail of defaulters.

Senator Podles moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 521-L, establishing a civic center commission to operate a civic and trade center in the city of Concord.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 521-L, establishing a civic center commission to operate a civic and trade center in the city of Concord.

Senator Johnson moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 524, relative to filing of reports or inventories with the probate court by guardians, fiduciaries, and executors; adopting the uniform disclaimer of property interests act; and relative to jurisdiction of family division courts.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 524, relative to filing of reports or inventories with the probate court by guardians, fiduciaries, and executors; adopting the uniform disclaimer of property interests act; and relative to jurisdiction of family division courts.

Senator Podles moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 525, relative to declaratory judgments.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 525, relative to declaratory judgments.

Senator Podles moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 554-FN, requiring the department of resources and economic development, the office of state planning, Pease development authority, and the business finance authority to make annual reports on their economic development programs and allowing state credit unions to participate in the capital access program.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 554-FN, requiring the department of resources and economic development, the office of state planning, Pease development authority, and the business finance authority to make annual reports on their economic development programs and allowing state credit unions to participate in the capital access program.

Senator Johnson moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 587, authorizing municipal and county agreements to purchase electricity and energy services.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 587, authorizing municipal and county agreements to purchase electricity and energy services.

Senator Johnson moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 618, relative to extended terms of imprisonment for certain DWI offenses.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 618, relative to extended terms of imprisonment for certain DWI offenses.

Senator Podles moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1547, relative to discovery in criminal cases.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Donnalee Lozeau
 William Knowles
 Randy Lyman
 Doris McIntyre

SENATE ACCEDES TO HOUSE REQUEST

HB 1547, relative to discovery in criminal cases.

Senator Podles moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Gordon, Cohen.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 573, relative to the issuance by courts of telephonic emergency temporary orders.

**SENATE NONCONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 573, relative to the issuance by courts of telephonic emergency temporary orders.

Senator Podles moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Gordon, Pignatelli.

5917

Enrolled Bill Amendment to HB 471-FN

Amend section 1 of the bill by replacing line 2 with the following:

RSA 14:44, III(d) to read as follows:

Amend section 7 of the bill by replacing line 4 with the following:
sections 5 and 6 of this act.

Senator Currier moved adoption.

Adopted.

5929

Enrolled Bill Amendment to HB 1543

Amend RSA 632-A:17, II(a) as inserted by section 1 of the bill by replacing line 6 with the following:

the Merrimack county superior court. In this section, "organization" shall

Amend RSA 632-A:17, II(c) as inserted by section 1 of the bill by replacing line 3 with the following:

632-A:2, I(l) or RSA 632-A:2, II or of an equivalent offense in an

Amend RSA 632-A:17, III(d) as inserted by section 1 of the bill by replacing line 7 with the following:

the appeal and as necessary to effectuate any order issued by the

Senator Currier moved adoption.

Adopted.

5945

Enrolled Bill Amendment to HB 1580-LOCAL

Amend RSA 79-C:6 as inserted by section 1 of the bill by replacing line 3 with the following:

terms shall include the method of assessment pursuant to RSA 79-C:7, the

Senator Currier moved adoption.

Adopted.

5957d Enrolled Bill Amendment to HB 1613

Amend section 1, paragraph XIII of the bill by replacing line 2 with the following:

pursuant to its powers under the New Hampshire Constitution to protect and

Senator Currier moved adoption.

Adopted.

ANNOUNCEMENTS

SENATOR LOVEJOY (Rule #44): Very recently a subject has come up with a constituent that I think is important and it is too late to do anything this year about it, but I just want to put the Senate on notice that it is something that should be looked at in another session. It is dealing,

Mr. President, with assessment testing of grades three, six and ten in our schools. We have passed assessment testing some three years ago, and it is an important tool in judging how schools are doing and how the grades are in blocks of grades, are imparting education to our children. But, Mr. President, we also encouraged parents to be involved in their children's education and in the education process. We are saying to parents that they should be more involved so that your child will do better and have a better interest. Well, Mr. President, some parents are concerned with the contents of the test that are being given in the assessment testing. Some parents are concerned with whether the questions are outcome based or whether they are value based or whether some of the questions deal with family environment. Some of these parents are going to the schools and saying that they want their kids to take these tests, but we would like to know what the test consists of before we let our children take them. I think that is a reasonable request, that parents be allowed to review the contents of a test. But they are being told that it is not allowed. The tests are secret. When they are told that, right off quick, a warning flag goes up with the parents, and they wonder what this test consists of? Why can't they know what their child is being tested on? Why can't I know the type of questions being asked? Well the argument for the secrecy on the other side, Mr. President, is that the test givers are afraid that the parents will take the questions home to the children and prep them to do well on the test. I believe, Mr. President, that parents should be invited to participate in their education, and that they should be allowed to review the test if that is their wish. Not all parents wish to do that, but when a parent asks and they are told, "no, I am sorry, the test is secret, you can't see what we are asking your child," well right off quick the parent says "well I don't want my child taking that test" and you have a problem. We had a problem in one of my constituent homes where they said that they wouldn't allow their child to take the test. They were told that they would have to go to jail for encouraging truancy, and we had a heck of a problem. We were able to smooth that out, but you see, here is a parent that wanted to be involved in their children's education, when they were told that they couldn't be, then we had a problem. Now I think that it is unreasonable to think that a parent can look at a test that has 120 to 200 questions and take the contents home and prep their child to do well on the test. I don't think that is reasonable to assume that. I believe that parents should be able to allowed to review these tests, and they should be allowed in a school environment, where they go in and say "gee, I would like to see the test that my child is going to take and they would sit and look at the test and leave the test, stay in the room, and be satisfied whether or not that is the test that the parent wishes to have their child participate in or won't allow them to do that." The purpose of the test certainly of assessment testing is to see how children are progressing through grade levels. It is impossible to memorize the contents of a test like that. I just want to request the future Senate to look at this and to realize that to exclude parents from their children's education certainly is counter to all that we have said in telling parents to participate. I thank you very much for the opportunity to pass that on to you.

RESOLUTION

Senator Barnes moved that the Rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

LATE SESSION RESOLUTION

Senator Barnes moved that the Senate be in recess until Thursday, May 16, 1996 at 10:00 a.m. for the sole purpose of receiving House messages and Enrolled Bill reports and Enrolled Bill amendments.

Adopted.

Third Reading and Final Passage

HB 533-FN, an act relative to retirement benefits for the state treasurer.

HB 647-FN-A, an act relative to transfers from the highway surplus account and relative to tolls charged on the Cheshire Bridge.

HB 1134-FN, an act relative to registration of certain criminal offenders.

HB 1253-FN-A, an act relative to senior "meals on wheels" and senior transportation and transferring certain funds.

HB 1406-FN-A, an act authorizing the commissioner of the department of corrections to transfer funds within the department of corrections budget for funding for the pathways program for the fiscal year 1997.

HB 1515-A, an act establishing a telecommunications assistance program.

HB 1536-FN-A-L, an act relative to encouraging private purchase, clean up, and restoration of environmentally contaminated sites and making a supplemental appropriation to the department of environmental services.

HB 1565-FN, an act changing the age of qualification for services in certain cases under RSA 169-D for children in need of services, relative to the confidentiality of information and attendance at proceedings under the child protection act and relative to children's services.

HB 1567-FN-A, an act making a supplemental appropriation to fund the position of state curator and relative to supplemental appropriations for youth development services.

HB 1576-FN, an act relative to extended detoxification of pregnant and postpartum heroin addicts utilizing the controlled drug methadone and relative to lead paint insurance coverage and lead paint risk reduction.

HB 1577-FN, an act relative to expenses for voluntary or court dispositional service plans and relative to child support.

HB 1584-FN-L, an act relative to the establishment of a DNA database and to the DNA testing of convicted sexual offenders.

HB 1620, an act relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas, authorizing the services of a consultant to develop a prototype lease and making an appropriation therefor.

HB 1623-L, an act authorizing school districts to establish revolving funds to finance certain programs, and relative to the printed materials revolving fund under the department of education, and increasing the appropriation therefor.

In Recess.

Out of Recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1164, making it illegal to train dogs to hunt bobcat and relative to the issuance of training permits and rulemaking by the executive director.

HB 1298, relative to driver's licenses and motor vehicle registrations for members of the armed forces and their spouses.

HB 1392, restructuring the electric utility industry in New Hampshire and establishing a legislative oversight committee.

HB 1404, lowering the blood alcohol concentration for aggravated driving while intoxicated from 0.20 to 0.16.

HB 1431, requiring individual health insurance policies to cover nonprescription enteral formulas.

HB 1477, relative to the penalties for a person driving while intoxicated or under the influence of drugs.

HB 1613, prohibiting and eliminating exclusivity contracts between health care insurers and health care providers.

SB 523, relative to insurance holding companies.

SB 583, requiring the Coos county commissioners to be elected on a rotating basis.

SB 632, requiring municipal water companies to provide notice and opportunity to certain tenants prior to termination of service.

HB 420, relative to habitability in manufactured housing parks.

HB 1265, relative to payment of utilities by tenants of manufactured housing parks.

HB 1575, extending the study committee considering the adoption of a constitutional amendment allowing a yield tax on sand, gravel, and similar materials and relative to taxation of sand, gravel, and similar materials for the tax year ending March 31, 1998.

HB 1630, establishing a new property leasing program for land in the Lake Francis impoundment area and relative to the New Hampshire heritage trail.

SB 551, establishing a committee to review state-funded health care insurance.

Senator Currier moved adoption.

Adopted.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Thursday, May 16, 1996 at 10:00 a.m.

Adopted.

Adjournment.

May 16, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Krisann Byrne-Scheri, Senate Guest Chaplain.

We praise You and call upon Your presence, eternal One, You dwell beyond the stars, yet You are as close as the breath we breathe. We thank You for this beautiful, spring morning and the hope of new life it brings. Indeed, we thank You for all the days of our lives. May we live each one in the way You call us to live. Those who gather here this morning thank You for the privilege of service to their fellow human beings, and they ask for Your blessing as well as Your guidance. May we be reminded that in seeking Your blessing we are accepting the responsibility to be a blessing to others as we are blessed. Let us be blessed. Let us be reminded, that those to whom much is given, much is expected. At the core of Your being is love and freedom, through our relatedness as Your children it is our birth-right to display these qualities in our relationships with one and another as well as with You. Help us to love with abandon everyone, especially those who differ from ourselves. Help us to seek the freedom and dignity of all persons even as we are gifted in our relationship with You, by Your mercy and grace. As we come before You this day asking "how shall we walk before You?" May we be reminded that You expect us to seek peace and justice and walk humbly before you. Amen

Miss New Hampshire, Gretchen Durgin, and Miss Teen New Hampshire, Melissa Coish, led the Pledge of Allegiance.

INTRODUCTION OF GUESTS SUSPENSION OF THE RULES

Senator Currier moved that Joint Rules be so far suspended as to allow a committee report after the deadline on **HB 1442**, an act relative to children's services.

Adopted by the necessary 2/3 vote.

HB 1442, an act relative to children's services. Finance Committee. Vote: 7-0. Ought to pass with amendment. Senator Currier for the committee. 5984L

Amendment to HB 1442

Amend the title of the bill by replacing it with the following:

AN ACT

relative to revenue and expenditures for the biennium
ending June 30, 1997.

Amend the bill by replacing all after the enacting clause with the following:

1 Declaration of Estimated Tax. Amend RSA 77-E:5 to read as follows:

I. Every business enterprise having gross business receipts in excess of \$100,000 as defined by RSA 77-E:1, X, during the taxable period or the enterprise value tax base of which is greater than \$50,000, shall, on or before the fifteenth day of the third month in the case of enterprises required to file a United States corporation tax return, and the fifteenth day of the fourth month in the case of all other business enterprises, following expiration of its taxable period, make a return to the commission-

er. All returns shall be signed by the business enterprise or by its authorized representative, subject to the pains and penalties of perjury and the penalties provided in RSA 21-J:39.

II. Every business enterprise shall in addition file a declaration of its estimated business enterprise tax for its subsequent taxable period; provided, however, if the estimated tax is less than \$200, a declaration need not be filed; and provided further that a declaration shall be filed at the end of any quarter thereafter in which estimated tax exceeds \$200. The declaration shall be filed when payments are done under RSA 77-E:6.

2 Payments of Estimated Tax. Amend RSA 77-E:6 to read as follows:
77-E:6 Payments Due With Returns.

I. All business enterprises required under RSA 77-A:5, II to make payments of estimated tax shall make such payments in installments as follows: 25 percent is due and payable on the fifteenth day of the fourth month of the subsequent taxable year; 25 percent is due and payable on the fifteenth day of the sixth month of the subsequent taxable year; 25 percent is due and payable on the fifteenth day of the month of the subsequent taxable year; and 25 percent is due and payable on the fifteenth day of the twelfth month of the subsequent taxable year.

II. If the return required by RSA [77-E:5] 77-E:5, I shows an amount to be due, such amount is due and payable on the prescribed payment date. If such return shows an overpayment of the tax due, the commissioner shall refund such overpayment to the business enterprise or shall allow the enterprise a credit against a subsequent payment or payment due, to the extent of the overpayment, at the enterprise's option.

3 New Section; Balanced Budget; Health Care Transition Fund.

I. Notwithstanding RSA 167:71 or any other provision of law to the contrary, if at the close of fiscal year 1995, 1996, or 1997, there is a general fund operating deficit and the net medicaid enhancement revenues received are less than the amounts anticipated for fiscal year 1995, or if at the close of fiscal year 1996 or at the close of fiscal year 1997, the net medicaid enhancement revenues received are less than the budget forecast in 1995, 307:14, the commissioner of administrative services, with the prior approval of the fiscal committee, shall transfer sufficient funds from the health care transition fund to the respective general fund unrestricted revenue accounts to eliminate such shortfall. The amount of the transfer shall not exceed the lesser of the general fund operating deficit or the net medicaid enhancement revenue shortfall.

II. The provisions of RSA 9:13-e, III shall not apply unless the transfer provided for in this section shall be insufficient to eliminate the general fund operations deficit.

III. If at the close of fiscal year 1995, or any subsequent fiscal year, the net medicaid enhancement revenues for that fiscal year are in excess of amounts budgeted, the commissioner of administrative services, with the prior approval of the fiscal committee of the general court, shall transfer the amount of any excess medicaid enhancement revenue from the general fund into the health care transition fund. The amount of such transfer shall not exceed the amount transferred.

IV. Except as provided in paragraph III, no excess net medicaid enhancement revenue shall be utilized for any purpose other than that authorized by paragraph III of this section without the specific approval of 2/3 of each house of the general court and the governor.

4 Annual Health Care Initiatives Budget. Amend RSA 167:73 to read as follows:

167:73 Annual Health Care Initiatives Budget. Appropriations from the health care transition fund shall be consistent with the purposes of the fund *as set forth in RSA 167:71. Neither the principal nor the interest income shall be used for any other purpose without the specific approval of 2/3 of each house of the general court and the governor.* Any funds not obligated shall lapse to the health care transition fund.

5 Effective Date.

I. Sections 1 and 2 of this act shall take effect July 1, 1996 and apply to returns and taxes due on account of taxable periods ending on and after January 1, 1997.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill requires business enterprises to file a declaration of its estimated business enterprise tax for the subsequent taxable period, if the estimated tax exceeds \$200. The bill also provides a payment schedule for the estimated tax.

XII. This bill also establishes a procedure for a transfer from the health care transition fund if there is a general fund operating budget deficit and a shortfall in net medicaid enhancement revenues at the close of fiscal year 1995, 1996, or 1997.

SENATOR CURRIER: The Senate Finance Committee held a hearing on this measure, and had well over 150 people from various agencies and operations relative to HB 59 provisions that were in the original draft of the budget balancing amendment that was being proposed for HB 1442. For a little history on HB 1442, the provisions that were in the original 1442 were put into 1565, so what we are now talking about here, is currently just the provisions of the original amendment that was proposed. The bill before you, in the calendar, basically replaces all after the enabling clause and renames the act, "an act relative to revenue and expenditures for the biennium ending June 30, 1997." The amendment deals with a number of provisions; the first provision, deals with legislation that currently will take from the Health Care Transition Fund, a portion of revenue that as a direct result from the shortfall in the Medicaid Enhancement Funds. That aside, we tried to deal with what the Senate is forecasting as a \$46 million problem in balancing the state budget. In dealing with that, the problem, as we see it, is a situation where \$15 million for each year of the biennium, in terms of lapses in Health and Human Services which total \$30 million. A state revenue shortfall of \$10 million for the biennium and over spending in the Health and Human Service budget, which is basically not having estimated the correct expenditures for that portion of the budget, over \$6 million for a total of \$46 million. The provisions of 1442 that you have before you . . . I will also be offering a floor amendment to take care of a technicality that was discovered late yesterday afternoon and it was basically nothing more than leaving out the month in which one of the BET estimated tax payments would be made, the month was left out, the date of the month was in the bill, but the month in which it would be collected was left out, so that is a technical correction that at some point, the Clerk will hand it out and we can act on that. The way that we basically fixed the budget is with the provisions in the bill that deal with the Health Care Transition Fund, taking up any shortfall in the Medicaid Enhancement Fund. The recouping of approximately \$20 million from third party

payments that an agency has indicated that they could collect for the state. There are a number of provisions there that were explained to the people over the last couple of days that the Senate is actually taking the low estimate of that figure. The executive branch has indicated a higher estimate than the Health and Human Services has estimated even higher, so from a conservative standpoint, the Senate Finance Committee took only the bottom of that estimate, which was \$20 million. The other provision in the amendment is a onetime fix on the business enterprise tax collecting that money in quarterly estimates, which is not currently done. Basically people paid their business enterprise tax at the end of their fiscal year or their business year, I believe that it is March 15, so what we are going to do here, is what we did very similarly to the business profits tax a number of years ago, where we asked businesses to take quarterly estimates of what their taxes would be. There are provisions in that bill so that smaller businesses under estimates of \$200 wouldn't have to pay, so there are some provisions in there that will help smaller businesses so that it doesn't become a burden. The last part of this is legislation that is currently on the books which will kick in \$6.7 million from the rainy day fund, should our estimates all come into place, which then brings it into balance to \$46 million. The interesting thing is that the House currently has a different figure than we have. We focused in on \$46 million and the House has a higher number than that. I am not sure what it is today, because it does have a tendency to change, so we will obviously be going to a Committee of Conference at some point to work out the differences between the Senate version and the House version of this measure. I know that a lot of you had received numerous calls regarding the provisions that were more commonly referred to as HB 59, relative to the redefining of the definition of APTD, taking away or buying back a thousand nursing home beds by the year 2000 and dealing with other issues like the moratorium on the certificate of need for issuance of hospital beds. None of that was adopted in this budget balancing provision that you have before you. We felt that there were a lot of those issues that were previously debated and it would cloud the issue in terms of trying to keep the ship-of-state afloat and on an even keel to the point where, I guess we didn't want to revisit some battle grounds that have already been fought, in terms of the House. This measure that is before you, I think, is a vehicle to get us to the Committee of Conference to come up with a complete package for balancing the budget and a mechanism to monitor it during the process; in other words, what I mean by the process, is, that from the period of time that we are out of session, so that the Fiscal Committee is actually having to deal with it. One of the key points in the legislation, we have taken the commissioner of Health and Human Services out of the loop in terms of making the determination as to what the Medicaid Enhancement shortfall would be, and if we put, basically the Fiscal Committee along with the Department of Administrative Services in that loop. I think that we have done a fairly reasonable job of dealing with this problem, and I would urge the Senate to move forward with passing this bill so that we can get on to a Committee of Conference and move forward on the issue.

SENATOR SHAHEEN: Senator Currier, I didn't understand how you arrived at the \$46 million deficit and I just wondered if you could go back through that again?

SENATOR CURRIER: Yes, I will. Basically it's the \$30 million that will not lapse in Health and Human Services. In HB 32 we gave the commis-

sioner the latitude to move monies from one point to another within the department, and what happens is, that basically eliminated the lapses of \$30 million for the biennium. What it also does is, it also provided us with the opportunity to not to have to deal with a supplemental budget as well. So I mean it is a little bit of give or take here with regard to that. That was the \$30 million. The \$10 million is approximately \$5 million each year of the biennium for a shortfall of state revenues, state sources; in other words, the budget estimates that we had made in terms of revenue expectations. The other one is the over spending in the Department of Health and Human Services which is basically settlement and provider care. That totals \$46 million.

SENATOR SHAHEEN: You mentioned the fact that the House numbers are different than the Senate numbers, can you tell us what the House numbers are and how they arrived at those?

SENATOR CURRIER: I do not know what the House numbers are today. There has been talk of somewhere around \$55 million. I think that they have higher estimates of what the shortfall at state revenues sources are and beyond that, I don't know.

SENATOR SHAHEEN: Are the revenue shortfall numbers, do they come from the LBA Office?

SENATOR CURRIER: Actually it is the combination of the LBA Office and the Ways and Means Committee.

SENATOR SHAHEEN: And the Senate Ways and Means Committee information is coming from whom?

SENATOR CURRIER: Basically, LBA. Legislative Budget Assistant.

SENATOR SHAHEEN: Okay, so they took the numbers and arrived at this figure?

SENATOR CURRIER: Yes.

SENATOR SHAHEEN: Okay. Thank you.

SENATOR J. KING: On that \$32 million that they were supposed to cut, is that being put back in now?

SENATOR CURRIER: Is it being put back in now?

SENATOR J. KING: Yes.

SENATOR CURRIER: No. The \$32 million that the commissioner is supposed to cut under . . . I am not sure if it was \$55 or \$32, that is all assumed as being achieved. All of those savings . . . we are not putting anything back in.

SENATOR J. KING: So the \$32 million we are just talking about, it is not that \$32 million that I thought that you said, "the first \$32 million and then \$5 million and then \$5 million."

SENATOR CURRIER: What \$32 million? I don't know what you are referring too?

SENATOR J. KING: Maybe it was \$30 million.

SENATOR CURRIER: Oh the \$30 million. That is lapsing.

SENATOR J. KING: That is already taken care of?

SENATOR CURRIER: The lapsing in the budget, normally we have somewhere around 3 percent in lapses. This year, because of the Workers' Compensation premiums that were included in everyone's budget,

we have excluded a 4.5 percent lapse. That lapse is not going to be achieved in Health and Human Services because we have been using up \$15 million in each year of the biennium.

SENATOR J. KING: So there was a cut, but there won't be one at the end of the year?

SENATOR CURRIER: I see where you are coming from. I guess that you can say that we have given them more money . . .

SENATOR J. KING: Yes. You are paying them anyway. I have another question on the Transition Fund. Is there any way in here, where that is going to be designated and how it is going to be paid back? Secondly, is there a limit to what you can take out of that amount or can it be anything before the next two years?

SENATOR CURRIER: TAPE CHANGE The Health Care Transition Fund, the way that it is set up in this bill, it is technically really not a loan, I think that they call it an "equity transfer" because when you're doing your accounting process it becomes a contingent liability for the next year, if it is a loan. It didn't really address the issue that we were trying to resolve. It is like a loan because there is a mechanism to put money back into it should the money come down the pike.

SENATOR PIGNATELLI: Senator Currier, you said that this is really borrowing the money, we might not call it a loan, but it is borrowing the money from the Health Care Transition Fund?

SENATOR CURRIER: No. Hear me loud and clear, Senator. We are "taking the money from the Health Care Transition Fund," okay? Taking it! If ever the tooth fairy comes along and gives us the money, it may go back, but we are taking the money from the Health Care Transition Fund. The word "loan" and so forth has been used by others, but not by this senator, okay? It is an equity transfer that is coming right out of the Health Care Transition Fund to offset the shortfall, only in the Medicaid . . . in other words, it is being used for what the money was originally intended for.

SENATOR PIGNATELLI: Does that solve the problem from now until June 30 or does that solve the problem through next year, through 1997?

SENATOR CURRIER: For the biennium. Through June 30, 1997.

SENATOR PIGNATELLI: What is the shortfall between now and June 30, 1996?

SENATOR CURRIER: I don't have the answer to that question. It could be as low as \$9 million or as high as \$30 something million, perhaps \$35 million.

SENATOR PIGNATELLI: Why when you were discussing this, did you not decide to just fix it between now and June 30 and let us come up with another way when a new legislative session comes in, rather than to fix it for the next year and a half?

SENATOR CURRIER: The problem with not making a permanent fix to our budget situation now, is that if we wait until the next legislature comes into session, the time period of making actual corrections is more severe, that have taken place later, than now. So if we waited until next February or March, you have three months. That means that if you had to make a 10 percent cut across the board, 10 percent of what is left is significant to an agency. In our opinion, that was not a prudent thing to do. We were trying to make a permanent fix that would deal with the overall budget shortfalls.

SENATOR PIGNATELLI: So how much of a total cut are we making with this bill for different agencies?

SENATOR CURRIER: A cut? We are not making any cuts. The cuts are in the governor's executive order that was addressed to the Fiscal Committee last Wednesday. That is \$10 million that we are assuming that we will get from the executive order. Those are cuts, facing freezing positions, out-of-state travel and so forth.

SENATOR PIGNATELLI: Thank you.

SENATOR BLAISDELL: I rise in support of the committee report as presented by Senator Currier. First of all, I want you to know that I think that the integrity of the Senate was upheld the other day by having the hearing. I commend the Senate president and the members of this Senate for having that hearing to have nine pages of people come in and express a view. I think that we have protected the integrity of the Senate. Most of the questions that you have asked are good questions. I don't believe that there are answers to them yet, so I believe that the sooner that you get this bill out of here and over to the House so that we can get into a Committee of Conference, and maybe some of the questions will be answered. I hope that they will be. I don't think, in fairness to Senator Currier and other members of the Finance Committee, we set a figure at \$46 million and the House has gone anywhere from \$89 million down to \$46 up to \$55. I think that that will have to be decided over the next few days. I ask you to pass this out of here and get it to the House so that we can get on with our work.

SENATOR LARSEN: I think that the Senate Finance Committee deserves credit because after a long and lengthy hearing, they heard the people of this state and they heard the wisdom. They knew that they needed to send the message that we will not cut elderly services and nursing home beds. We do not support further cuts in those who are disabled through APTD. We don't cut further into children's services and the juvenile justice system. They also recognized the need to rein in a little more legislative control over the commissioner of the Department of Health and Human Services and the huge amounts of monies of which he used to have available to him. That was a really good move and a very wise move by the Senate Finance Committee and I respect your decision in doing that. Two years ago, all of us who were running recognized that the state was going to have a deficit, we knew it. We knew that it was going to be a problem. Here we are two years later, on the last day of the last month, and we are finally addressing what all of us knew was coming, which is that we are going to look at the Health Care Transition Fund. A lot of us predicted that is where the source would be a while ago. We knew it and you knew it, but we are finally doing it. My point is, that I commend Senator Currier, because he really did some straight talking today. It has been talked about as "borrowing" from the Health Care Transition Fund. We are not borrowing, because of the likelihood of us ever paying that back is pretty distant given what congress is sending us these days and the message that we are getting. So we are not borrowing that. The difficulty is that those Health Care Transition monies which were meant to provide further services, they are not going to be able to happen at the same level that we hoped. But it means that we are going to continue to provide some of the health care for our elderly, for the children of this state, and for those who are disabled. I would have liked to see us take a little more or to have looked towards the commissioner's extra money and his administration or the excess inter-

est from the Health Care Transition Fund, could have funded those on the waiting list as well, but we didn't do that last week, and I still regret that. But we have had some straight talk today, we are not borrowing this money. We are solving the state's problems on a very short-term fix. We are going to face this again next session, those who come back, and the legislators of the future are going to have to face directly, how does a state pay for its services. We have gotten a free ride from the feds for a long time and now is the time to begin to look over the summer at how do you really feel? How do you think that this state should pay for its services, and how are you going to fund those services and what is important to you, where are your priorities? We have a long summer ahead of us. I just wanted to say that I commend the Senate Finance Committee for solving this short-term problem. Thanks.

Recess.

Out of recess.

Question is on the committee amendment.

A roll call was requested by Senator Wheeler.

Seconded by Senator Pignatelli.

The following Senators voted Yes: F. King, Gordon, Johnson, Fraser, Lovejoy, Currier, Rodeschin, Roberge, Blaisdell, Stawasz, Pignatelli, Colantuono, Larsen, Barnes, J. King, Russman, Danaïs, Shaheen, Delahunty, Keough, Cohen.

The following Senators voted No: Rubens, Wheeler.

Yeas: 21 - Nays: 2

Amendment adopted.

Senator Podles is excused for the day.

Senator Currier offered a floor amendment.

5989L

Floor Amendment to HB 1442

Amend the title of the bill by replacing it with the following:

AN ACT
relative to revenue and expenditures for the biennium
ending June 30, 1997.

Amend the bill by replacing all after the enacting clause with the following:

1 Declaration of Estimated Tax. Amend RSA 77-E:5 to read as follows:

I. Every business enterprise having gross business receipts in excess of \$100,000 as defined by RSA 77-E:1, X, during the taxable period or the enterprise value tax base of which is greater than \$50,000, shall, on or before the fifteenth day of the third month in the case of enterprises required to file a United States corporation tax return, and the fifteenth day of the fourth month in the case of all other business enterprises, following expiration of its taxable period, make a return to the commissioner. All returns shall be signed by the business enterprise or by its authorized representative, subject to the pains and penalties of perjury and the penalties provided in RSA 21-J:39.

II. *Every business enterprise shall in addition file a declaration of its estimated business enterprise tax for its subsequent taxable period; provided, however, if the estimated tax is less than*

\$200, a declaration need not be filed; and provided further that a declaration shall be filed at the end of any quarter thereafter in which estimated tax exceeds \$200. The declaration shall be filed when payments are done under RSA 77-E:6.

2 Payments of Estimated Tax. Amend RSA 77-E:6 to read as follows: 77-E:6 Payments Due With Returns.

I. All business enterprises required under RSA 77-A:5, II to make payments of estimated tax shall make such payments in installments as follows: 25 percent is due and payable on the fifteenth day of the fourth month of the subsequent taxable year; 25 percent is due and payable on the fifteenth day of the sixth month of the subsequent taxable year; 25 percent is due and payable on the fifteenth day of the ninth month of the subsequent taxable year; and 25 percent is due and payable on the fifteenth day of the twelfth month of the subsequent taxable year.

II. If the return required by RSA [77-E:5] **77-E:5**, I shows an amount to be due, such amount is due and payable on the prescribed payment date. If such return shows an overpayment of the tax due, the commissioner shall refund such overpayment to the business enterprise or shall allow the enterprise a credit against a subsequent payment or payment due, to the extent of the overpayment, at the enterprise's option.

3 New Section; Balanced Budget; Health Care Transition Fund.

I. Notwithstanding RSA 167:71 or any other provision of law to the contrary, if at the close of fiscal year 1995, 1996, or 1997, there is a general fund operating deficit and the net medicaid enhancement revenues received are less than the amounts anticipated for fiscal year 1995, or if at the close of fiscal year 1996 or at the close of fiscal year 1997, the net medicaid enhancement revenues received are less than the budget forecast in 1995, 307:14, the commissioner of administrative services, with the prior approval of the fiscal committee, shall transfer sufficient funds from the health care transition fund to the respective general fund unrestricted revenue accounts to eliminate such shortfall. The amount of the transfer shall not exceed the lesser of the general fund operating deficit or the net medicaid enhancement revenue shortfall.

II. The provisions of RSA 9:13-e, III shall not apply unless the transfer provided for in this section shall be insufficient to eliminate the general fund operations deficit.

III. If at the close of fiscal year 1995, or any subsequent fiscal year, the net medicaid enhancement revenues for that fiscal year are in excess of amounts budgeted, the commissioner of administrative services, with the prior approval of the fiscal committee of the general court, shall transfer the amount of any excess medicaid enhancement revenue from the general fund into the health care transition fund. The amount of such transfer shall not exceed the amount transferred.

IV. Except as provided in paragraph III, no excess net medicaid enhancement revenue shall be utilized for any purpose other than that authorized by paragraph III of this section without the specific approval of 2/3 of each house of the general court and the governor.

4 Annual Health Care Initiatives Budget. Amend RSA 167:73 to read as follows:

167:73 Annual Health Care Initiatives Budget. Appropriations from the health care transition fund shall be consistent with the purposes of the fund as set forth in RSA 167:71. Neither the principal nor the interest income shall be used for any other purpose without the spe-

cific approval of 2/3 of each house of the general court and the governor. Any funds not obligated shall lapse to the health care transition fund.

5 Effective Date.

I. Sections 1 and 2 of this act shall take effect July 1, 1996 and apply to returns and taxes due on account of taxable periods ending on and after January 1, 1997.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill requires business enterprises to file a declaration of its estimated business enterprise tax for the subsequent taxable period, if the estimated tax exceeds \$200. The bill also provides a payment schedule for the estimated tax.

This bill also establishes a procedure for a transfer from the health care transition fund if there is a general fund operating budget deficit and a shortfall in net medicaid enhancement revenues at the close of fiscal year 1995, 1996, or 1997.

SENATOR CURRIER: This floor amendment is what corrects the problem where it doesn't list the actual month. For some odd reason when Legislative Services does something, they basically put the whole thing as another amendment, so basically, the document that you have before you, is now the new bill. Instead of just changing the date, they typed the whole thing up with the correct date in it.

Floor amendment adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Senate Bill:

SB 4-FN, relative to the time allowed for postsurgical recovery.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Robert Foster
	Alice Zeigra
	Joan Sullens
	Alphonse Haettenschwiller

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

SB 4-FN, relative to the time allowed for postsurgical recovery.

5976d

COMMITTEE OF CONFERENCE REPORT ON SB 4-FN

The committee of conference to which was referred Senate Bill 4-FN, An Act relative to the time allowed for postsurgical recovery having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing all after section 1 with the following:

2 Ambulatory Surgical Facilities. Amend RSA 151-C:2-a to read as follows:
151-C:2-a Ambulatory Surgical Facilities.

*I. An ambulatory surgical facility [shall not] **licensed on or before July 1, 1996, may provide 2 beds** [or other accommodations] for the overnight stay of patients, **not to exceed 24 hours**. An individual patient shall be discharged in an ambulatory condition without danger to the continued well-being of the patient or shall be transferred to a hospital.*

*II. An ambulatory surgical facility **licensed after July 1, 1996**, shall not provide beds or other accommodations for the overnight stay of patients. An individual patient shall be discharged in an ambulatory condition without danger to the continued well-being of the patient or shall be transferred to a hospital.*

3 Ambulatory Surgical Facilities. Amend RSA 151-C:2-a, II to read as follows:

II. An ambulatory surgical facility [licensed after July 1, 1996,] shall not provide beds or other accommodations for the overnight stay of patients. An individual patient shall be discharged in an ambulatory condition without danger to the continued well-being of the patient or shall be transferred to a hospital.

4 Ambulatory Surgical Facility Pilot Program. The health services planning and review board (board) shall establish a 2-year ambulatory surgical facility pilot program to study the need for and efficiency of overnight beds in ambulatory surgical facilities. This pilot program shall terminate July 1, 1998. Ambulatory surgical facilities licensed by the state of New Hampshire on or prior to July 1, 1996, which elect to provide overnight stays under RSA 151-C:2-a, I shall participate in the pilot program by notifying the board and fulfilling licensure requirements established in accordance with RSA 151. The commissioner of health and human services shall adopt rules, pursuant to RSA 541-A, regarding quality and safety standards for overnight beds in ambulatory surgical facilities. The board shall require participating facilities to submit utilization and financial data in order for the board to complete its study. Upon completion of the pilot program, the board shall issue a report to the governor, the president of the senate, the speaker of the house, the senate clerk, the house clerk, and the state library regarding the future need, if any, for overnight beds in ambulatory surgical facilities.

5 Repeal. RSA 151-C:2-a, I, relative to overnight stays, is repealed.

6 Effective Date.

I. Sections 3 and 5 of this act shall take effect July 1, 1998.

II. The remainder of this act shall take effect July 1, 1996.

*Conferees on the
Part of the Senate*

Sen. Danaïs, Dist. 20
Sen. Blaisdell, Dist. 10
Sen. F. King, Dist. 1

*Conferees on the
Part of the House*

Rep. R. Foster, Carr. 10
Rep. Ziegra, Belk. 5
Rep. Sullens, Hills. 33
Rep. Haettenschwiller, Hills. 29

AMENDED ANALYSIS

The bill establishes a 2-year pilot program relative to ambulatory surgical facilities. During the pilot program period, an ambulatory surgical facility licensed on or prior to July 1, 1996, may provide 2 beds for overnight accommodation of patients. The commissioner of health and human services is directed to adopt rules regarding the pilot program.

SENATOR DANAIS: I rise to urge your support for the Committee of Conference Report on SB 4, which at long last will allow for ambulatory surgical facilities to provide two beds for overnight stay of patients, not to exceed 24 hours during a two-year pilot program. As the original sponsors of SB 4, Senator Roberge and I are satisfied with the compromise reached by the Committee of Conference, particularly the view of the insurances provided by the House conferees and the administrators of the Department of Health and Human Services that ambulatory surgical facilities with a current license may begin the overnight pilot project immediately upon the effective date of July 1, 1996, simply by notifying the board and fulfilling the current licensure requirements. It is the intent of the Committee of Conference, that if the pilot program operates satisfactorily and provides safe, economical patient care that the overnight stay provisions would become part of the state law. In view of these assurances, I urge your support of the Committee of Conference Report on SB 4.

Senator Danais moved to adopt the Committee of Conference Report.

Adopted.

5406L

COMMITTEE OF CONFERENCE REPORT ON SB 130

The committee of conference to which was referred Senate Bill 130, An Act relative to the Uniform Trustees' Powers Act having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend paragraph I of section 4 of the bill by replacing it with the following:

I. There is established a committee to study issues relative to adopting new laws pertaining to trusts. The committee shall consist of the following members:

(a) Three senators appointed by the senate president.

(b) Three house members appointed by the speaker of the house.

*Conferees on the
Part of the Senate*

Sen. Fraser, Dist. 4
Sen. Colantuono, Dist. 14
Sen. Blaisdell, Dist. 10

*Conferees on the
Part of the House*

Rep. Hart, Hills. 37
Rep. Kennedy, Merr. 7
Rep. Wall, Straf. 9
Rep. Streeter, Hills. 32

SENATOR FRASER: After the conference, we determined that the House version of the bill was appropriate and it was unanimously adopted.

Senator Fraser moved to adopt the Committee of Conference Report.

Adopted.

5808L

COMMITTEE OF CONFERENCE REPORT ON HB 1539-FN-LOCAL

The committee of conference to which was referred House Bill 1539-FN-LOCAL, An Act relative to fees for group dog licenses having considered the same, report the same with the following recommendations:

That the house recede from its position of nonconcurrency with the senate amendment, and concur with the senate amendment, and

That the Senate and House each pass the bill as amended by the senate.

*Conferees on the
Part of the Senate*

Sen. Rubens, Dist. 5
Sen. Stawasz, Dist. 12
Sen. Cohen, Dist. 24

*Conferees on the
Part of the House*

Rep. Pitman, Merr. 12
Rep. Babson, Carr. 5
Rep. Owen, Merr. 6
Rep. Bridgewater, Hills. 44

SENATOR STAWASZ: I rise to adopt the Committee of Conference on HB 1539. The House receded from its position of nonconcurrency with the Senate amendment, concurred and unanimous agreement that we pass the bill as amended by the Senate.

Senator Stawasz moved to adopt the Committee of Conference Report.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 533-FN, relative to retirement benefits for the state treasurer.

HB 1162-FN, relative to making a supplemental appropriation for the veterinary diagnostic laboratory in the agriculture experiment station at the university of New Hampshire.

HB 1169, authorizing the department of health and human services to impose administrative fines on certain nursing homes.

HB 1193-FN-L, relative to department of revenue administration reporting requirements relative to a yield tax on timber, establishing an exception from RSA 541-A for requirements on certain tax filing forms, and removing a budget footnote.

HB 1203-L, excluding pupils in home education programs from average daily membership in cooperative school district apportionment formulas, and deleting the date for notification for home education.

HB 1253-FN-A, relative to senior "meals on wheels" and senior transportation and transferring certain funds.

HB 1286, relative to the suspension and expulsion of pupils.

HB 1567-FN-A, making a supplemental appropriation to fund the position of state curator and revising certain supplemental appropriations for youth development services.

HB 1623-L, authorizing school districts to establish revolving funds to finance certain programs, and relative to the printed materials revolving fund under the department of education, and increasing the appropriation therefor.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1366, requiring the commissioner of the department of corrections to prepare a quarterly report on department of corrections population management.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Donnalee Lozeau
 Randy Lyman
 Herbert Hansen
 Kathy Rogers

SENATE ACCEDES TO HOUSE REQUEST

HB 1366, requiring the commissioner of the department of corrections to prepare a quarterly report on department of corrections population management.

Senator Wheeler moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Wheeler, Rubens, J. King.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1399, establishing 2 new positions in the department of environmental services to implement the sludge permit system; repealing the sewage disposal system fund; relative to sewage disposal system recording fees; and making appropriations from the balance contained in the sewage disposal system fund.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Kevin Camm
 David Babson
 Harold Melcher
 Merle Schotanus

SENATE ACCEDES TO HOUSE REQUEST

HB 1399, establishing 2 new positions in the department of environmental services to implement the sludge permit system; repealing the sewage disposal system fund; relative to sewage disposal system recording fees; and making appropriations from the balance contained in the sewage disposal system fund.

Senator Russman moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Pignatelli, Rodeschin.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1550, relative to a lobster management plan and relative to lobster and crab licenses.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Charles Felch
Harold Crossman
Harold Magoon
George Brown

SENATE ACCEDES TO HOUSE REQUEST

HB 1550, relative to a lobster management plan and relative to lobster and crab licenses.

Senator Roberge moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Cohen, Wheeler, Rodeschin.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1555-FN-A, authorizing the commissioner of the department of environmental services to impose administrative fines for certain environmental violations and continually appropriating certain fine revenues.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Mert Dyer
Sylvia Holley
Warren Goddard
Miriam Dunn

SENATE ACCEDES TO HOUSE REQUEST

HB 1555-FN-A, authorizing the commissioner of the department of environmental services to impose administrative fines for certain environmental violations and continually appropriating certain fine revenues.

Senator Russman moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Cohen, Johnson.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1593-FN, establishing a joint legislative committee to study the state investigation of the late John C. Fairbanks.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Robert Lockwood
 Nick Hart
 Alf Jacobson
 Benjamin Depecol

SENATE ACCEDES TO HOUSE REQUEST

HB 1593-FN, establishing a joint legislative committee to study the state investigation of the late John C. Fairbanks.

Senator Podles moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Gordon, Cohen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1633-FN-L, relative to solid waste management.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Kathryn Aranda
 Harold Melcher
 Peter Showerman
 Robert Wheeler

SENATE ACCEDES TO HOUSE REQUEST

HB 1633-FN-L, relative to solid waste management.

Senator Russman moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Pignatelli, F. King.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 625, relative to insurance fraud.

**SENATE NONCONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 625, relative to insurance fraud.

Senator Danais moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Danais, F. King, J. King.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 625, relative to insurance fraud.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Bonnie Packard
Beverly Gage
John Hunt
Anthony Syracuse

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 646-FN, establishing a committee to study alternative sentencing for persons convicted of drug-related offenses and nonviolent crimes.

**SENATE NONCONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 646-FN, establishing a committee to study alternative sentencing for persons convicted of drug-related offenses and nonviolent crimes.

Senator Podles moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, F. King, Pignatelli.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 646-FN, establishing a committee to study alternative sentencing for persons convicted of drug-related offenses and nonviolent crimes.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Donnalee Lozeau
William Knowles
Andrew Christie
Donna Sytek

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 654-FN, relative to fees for certain hunting and fishing licenses.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 654-FN, relative to fees for certain hunting and fishing licenses.

Senator Roberge moved to concur.

Adopted.

Recess.

Senator Barnes in the Chair.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1207, relative to coinsurance payments for covered services.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Beverly Gage
	John Hunt
	Bonnie Packard
	Toni Crosby

SENATE ACCEDES TO HOUSE REQUEST

HB 1207, relative to coinsurance payments for covered services.

Senator Danais moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Danais, Fraser, Blaisdell.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate:

HB 1291, relative to vandalism and criminal mischief.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Vivian Clark
	Kathleen Toomay
	Doris MacIntyre
	Sharleene Hurst

SENATE ACCEDES TO HOUSE REQUEST

HB 1291, relative to vandalism and criminal mischief.

Senator Podles moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Cohen, Pignatelli.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1332-FN, requiring financial institutions to display certain information on fees, charges, and available products in their lobbies.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Bonnie Packard
 John Hunt
 Beverly Gage
 Tony Syracuse

**SENATE REFUSES TO ACCEDE TO A
COMMITTEE OF CONFERENCE**

HB 1332-FN, requiring financial institutions to display certain information on fees, charges, and available products in their lobbies.

Senator Fraser moved to refuse to accede to the Committee of Conference.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate:

HB 1545, recognizing the validity of faxed search and arrest warrants and domestic violence orders.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Robert Mercer
 Sylvia Holley
 Maurice Goulet
 Howard Williams

SENATE ACCEDES TO HOUSE REQUEST

HB 1545, recognizing the validity of faxed search and arrest warrants and domestic violence orders.

Senator Podles moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Gordon, Wheeler, Cohen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 345-L, relative to voluntary payments in lieu of taxes and establishing a committee to recommend legislative changes regarding voluntary payments in lieu of taxes.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Katherine Metzger
Elizabeth Cepaitis
Betsy Patten
Linda Foster

SENATE ACCEDES TO HOUSE REQUEST

HB 345-L, relative to voluntary payments in lieu of taxes and establishing a committee to recommend legislative changes regarding voluntary payments in lieu of taxes.

Senator Colantuono moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Currier, Barnes, Blaisdell.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 530-FN, transferring the functions and duties of the director of state ski operations.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: William Williams
Rudolf Adler
Merle Schotanus
Debbie Merritt

SENATE ACCEDES TO HOUSE REQUEST

HB 530-FN, transferring the functions and duties of the director of state ski operations.

Senator Roberge moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Currier, F. King, Pignatelli.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 610, relative to municipal water, gas and electric utilities.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Jeb Bradley
 Jeff MacGillivray
 John Thomas
 Cliff Below

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 610-L, integrating changes in the municipal budget act into the laws relating to towns and school districts.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Katherine Metzger
 Betsy Patten
 Ed Putnam
 Linda Foster

SENATE ACCEDES TO HOUSE REQUEST

HB 610-L, integrating changes in the municipal budget act into the laws relating to towns and school districts.

Senator Rodeschin moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Rodeschin, Stawasz, Larsen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1171-FN, relative to fees for number plates.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Robert Holbrook
 Robert Wheeler
 Arthur Klemm
 Margaret Lynch

SENATE ACCEDES TO HOUSE REQUEST

HB 1171-FN, relative to fees for number plates.

Senator Gordon moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Currier, Keough, Blaisdell.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate:

HB 1173-FN-L, relative to juvenile court proceedings and victim's rights in the context of delinquency proceedings.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Randy Lyman
	William Knowles
	Olive Morrill
	Donna Sytek

SENATE ACCEDES TO HOUSE REQUEST

HB 1173-FN-L, relative to juvenile court proceedings and victim's rights in the context of delinquency proceedings.

Senator Podles moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Wheeler, Pignatelli.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1331-FN, relative to clarifying certain provisions under the workers' compensation law.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Robert Hawkins
	Robert Turner
	Paul Perkins
	Lorraine Palmer

SENATE ACCEDES TO HOUSE REQUEST

HB 1331-FN, relative to clarifying certain provisions under the workers' compensation law.

Senator Danaïs moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Danaïs, F. King, Blaisdell.

HOUSE MESSAGE

The House of Representatives refused to concur with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 1565-FN, changing the age of qualification for services in certain cases under RSA 169-D for children in need of services.

HB 1577-FN, relative to expenses for voluntary or court dispositional service plans.

5972

Enrolled Bill Amendment to HB 547-FN-LOCAL

Amend RSA 100-B:2, II as inserted by section 1 of the bill by replacing line 2 with the following:
established in RSA 100-B:9 to administer the program.

Amend RSA 100-B:2, VIII as inserted by section 1 of the bill by replacing line 2 with the following:

RSA 100-B:4. Unless specifically provided otherwise, "member" shall not

Amend RSA 100-B:2, XII as inserted by section 1 of the bill by replacing line 3 with the following:

under a service awards program. Permanent personnel shall not be considered

Amend RSA 100-B:2, XVI as inserted by section 1 of the bill by replacing line 2 with the following:

who has commenced receiving contribution repayments under RSA 100-B:6.

Amend RSA 100-B:2, XVII as inserted by section 1 of the bill by replacing line 2 with the following:

participant in a service awards program.

Amend RSA 100-B:3, III as inserted by section 1 of the bill by replacing line 7 with the following:

conditions as set forth in RSA 100-B:6 and RSA 100-B:12.

Amend RSA 100-B:6, III as inserted by section 1 of the bill by replacing line 1 with the following:

III. Firefighting service shall be credited under a service awards

Amend RSA 100-B:7, III as inserted by section 1 of the bill by replacing line 2 with the following:

directed to, or diverted to, any purpose, subject to the payment of

Amend RSA 100-B:8, I(e) as inserted by section 1 of the bill by replacing line 1 with the following:

(e) Two members appointed by the New Hampshire State Firemen's

Amend RSA 100-B:8, V as inserted by section 1 of the bill by replacing line 2 with the following:

the committee at its first meeting. No chairperson shall serve more

Amend RSA 100-B:11, III(b)(3) as inserted by section 1 of the bill by replacing line 4 with the following:
100-B:4.

Amend RSA 100-B:13, IV as inserted by section 1 of the bill by replacing line 2 with the following:
criteria set forth in RSA 100-B:4, II.

Amend RSA 100-B as inserted by section 1 of the bill by renumbering the second RSA 100-B:2 and RSA 100-B:3-13 to read as RSA 100-B:3-14, respectively.

Senator Currier moved adoption.

Adopted.

5930

Enrolled Bill Amendment to HB 1155

Amend the bill by deleting sections 1-5 and 7-12 and renumbering the original sections 6 and 13 to read as 1 and 2, respectively.

Senator Currier moved adoption.

Adopted.

5970d

Enrolled Bill Amendment to HB 1303

Amend the title of the bill by replacing it with the following:

AN ACT
relative to the rulemaking authority of the commissioner of
transportation, removing a requirement for a written
agreement for reimbursement for certain planning
and design work performed by the division
of public works, and revising the
definition of "aircraft."

Senator Currier moved adoption.

Adopted.

5951

Enrolled Bill Amendment to HB 1415

Amend RSA 179-B:19, II-b as inserted by section 2 of the bill by replacing line 9 with the following:

such release of information. ***The person signing the release of***

Amend RSA 170-B:19, II-d as inserted by section 3 of the bill by replacing it with the following:

II-d. When an agency receives a request by an adoptee over 21 years of age, or a natural parent of an adoptee over 21 years of age, if no release of information has been signed, the agency may, after review of its records, attempt to contact the natural parent, or adoptee over 21 years of age, to ascertain if they desire to release identifying information. If a natural parent who has consented to the adoption, or relinquished his or her parental rights to a child placing agency, or whose parental rights were terminated pursuant to RSA 170-C, and the adoptee over 21 years of age agree to the release of identifying information, the agency shall release it. If the parties do not agree, or if they cannot be contacted, the adoptee over 21 years of age, a natural parent, or the agency may petition the court having jurisdiction for the release of identifying information. The agency shall file a report of the agency's action with the court. The court shall on its own motion or on request of any party hold a hear-

ing on the issue of releasing identifying information. The agency involved shall receive notice of the hearing and be entitled to participate in any hearing under this section.

Amend the bill by replacing section 5 with the following:

5 Effective Date.

I. RSA 170-B:19, II-b as amended by section 2 of this act shall take effect January 1, 1997, at 12:01 a.m.

II. The remainder of this act shall take effect January 1, 1997.

Senator Currier moved adoption.

Adopted.

5975

Enrolled Bill Amendment to HB 1485

Amend RSA 417:10 as inserted by section 12 of the bill by replacing line 5 with the following:

commissioner, in [his] *the commissioner's* discretion, in addition to

Senator Currier moved adoption.

Adopted.

5962d

Enrolled Bill Amendment to HB 1581

Amend section 2 of the bill by replacing lines 1-3 with the following:

2 New Paragraphs; Motor Vehicle License Revoked for BWI Offenses. Amend RSA 270:48-a by inserting after paragraph V the following new paragraphs:

Amend the bill by replacing section 3 with the following:

3 New Paragraph; Boating While Intoxicated Added to January 1, 1997 Provision. Amend RSA 265:82-b by inserting after paragraph I the following new paragraph:

I-a. Any person convicted of a violation of RSA 270:48-a shall be subject to the penalties set out in this section for a violation of RSA 265:82.

4 Contingency. If HB 1477 of the 1996 regular session becomes law, section 3 of this act shall take effect January 1, 1997, at 12:01 a.m. If HB 1477 does not become law, section 3 of this act shall not take effect.

5 Effective Date.

I. Section 3 of this act shall take effect as provided in section 4 of this act.

II. The remainder of this act shall take effect 60 days after its passage.

Senator Currier moved adoption.

Adopted.

5964

Enrolled Bill Amendment to HB 1609

Amend RSA 436:105, III as inserted by section 1 of the bill by replacing lines 11-12 with the following:

laboratory, department of health and human services. It shall be the responsibility of the owner for any expense for

Amend section 2 of the bill by replacing lines 2-3 with the following: 105-b the following new section:

436:105-c Police Dogs.

Amend section 4 of the bill by replacing lines 2-3 with the following:
after paragraph X the following new paragraph:

XI. "Search and rescue dog" means any dog which has been trained to
Senator Currier moved adoption.

Adopted.

5967d

Enrolled Bill Amendment to SB 552

Amend the bill by deleting section 2 and renumbering the original sections 3-22 to read as 2-21, respectively.

Amend section 10 of the bill by replacing line 3 with the following:
420-B:8-j Newborn Children.

Amend section 19 of the bill by replacing line 2 with the following:
section 6-b the following new section:

Senator Currier moved adoption.

Adopted.

5974d

Enrolled Bill Amendment to SB 617-LOCAL

Amend section 1 of the bill by replacing lines 2-3 with the following:
inserting after chapter 38-B the following new chapter:

CHAPTER 38-C

Amend RSA 38-B:1 - 38-B:6 as inserted by section 1 of the bill by renumbering them to read as RSA 38-C:1 - 38-C:6, respectively.

Amend RSA 231:62 as inserted by section 3 of the bill by replacing line 2 with the following:

public works commissioners under RSA 38-C to perform the duties of highway

Senator Currier moved adoption.

Adopted.

5971d

Enrolled Bill Amendment to SB 618

Amend section 1 of the bill by replacing lines 9-10 with the following:
transmission[.]; or

(1) Such person has previously been convicted of a violation of

Senator Currier moved adoption.

Adopted.

5956

Enrolled Bill Amendment to SB 629

Amend section 1 of the bill by replacing line 1 with the following:

1 Uniform Testamentary Additions to Trusts Act. RSA 563-A is repealed
Amend RSA 563-A:1, III as inserted by section 1 of the bill by replacing line 1 with the following:

III. Unless the testator's will provides otherwise, a revocation or

Amend RSA 563-A:2 as inserted by section 1 of the bill by replacing line 2 with the following:

of a testator who dies after January 1, 1997.

Senator Currier moved adoption.

Adopted.

5966d

Enrolled Bill Amendment to SJR 20

Amend the resolution by replacing line 4 after the resolving clause with the following:
or designee, the commissioner of agriculture, markets, and food or designee, the state

Senator Currier moved adoption.

Adopted.

5986

Enrolled Bill Amendment to SB 502

Amend the bill by replacing all after the enacting clause with the following:

1 Administrative Officials; Membership on Planning Boards. Amend RSA 673:2, I-a, II, and III to read as follows:

I-a. In towns which operate under the town council form of government, the planning board shall consist of 7 or 9 members, as determined by the local legislative body or by the municipal charter. If the planning board shall consist of 9 members, the members shall be the persons listed in paragraph I. If the planning board shall consist of 7 members, the members shall be as follows:

(a) A member of the town council *or administrative official of the town* selected by the town council, who shall be an ex officio member; and

(b) Six persons appointed by the mayor, if the mayor is an elected official, or such other method of appointment or election as shall be provided by the local legislative body or municipal charter.

II. In other towns, the planning board shall consist of 5 or 7 members as determined by the local legislative body. The membership shall be filled by one of the following procedures:

(a) The selectmen shall designate one selectman *or administrative official of the town* as an ex officio member and appoint 4 or 6 other persons who are residents of the town, as appropriate; or

(b) The local legislative body may decide, by majority vote at the town meeting, that planning board members shall be elected according to either the procedure in subparagraph (1) or in subparagraph (2). The official ballot shall be used on every referendum for the adoption of RSA 673:2, II(b)(1) or (2), and every subsequent rescission of such adoption pursuant to subparagraph (c). The wording on the official ballot of any referendum for the adoption of RSA 673:2, II(b)(1) or (2) shall specifically state which procedure for electing planning board members is being voted upon. Following the majority vote at town meeting, planning board members shall be elected as follows:

(1) The selectmen shall choose one selectman *or administrative official of the town* as an ex officio member and the remaining planning board positions shall be filled at the next regular town election pursuant to RSA 669:17. Thereafter, a planning board member shall be elected for the term provided under RSA 673:5, II; or

(2) The selectmen shall choose one selectman *or administrative official of the town* as an ex officio member and the remaining planning board positions shall be filled on a staggered basis at the subsequent regular town elections pursuant to RSA 669:17 as the term of an appointed member expires, until each member of the board is an elected

member. The maximum number of elections to occur annually shall be as provided in RSA 673:5, II. When each planning board member is an elected member, such member shall be elected for the term provided in RSA 673:5, II.

(c) A local legislative body which has voted to elect planning board members may, by majority vote at town meeting, decide to rescind that action and have the planning board appointed in the manner set forth in subparagraph (a). The vote to have planning board members so appointed shall take effect upon adoption by the town meeting, and the selectmen shall forthwith appoint members in accordance with RSA 673:5. The planning board shall, however, continue in existence, and the elected members in office at the time of the town meeting vote to appoint members may continue to serve until their successors are appointed and qualified.

III. In village districts, the planning board shall consist of either 5 or 7 members as determined by the village district meeting. The district commissioners shall:

(a) Designate one district commissioner *or administrative official of the district* as an ex officio member; and

(b) Appoint 4 or 6 other persons who are residents of the village district, as appropriate.

2 Terms of Local Land Use Board Members. Amend RSA 673:5, I to read as follows:

I. (a) Except as provided in subparagraph (b), the term of any ex officio member serving on a local land use board shall coincide with the term for that other office; except that the term of the administrative official appointed by the mayor shall terminate with the term of office of the mayor appointing the official, *and that the term of the administrative official appointed by the town council, board of selectmen, or village district commissioners shall be for one year.*

(b) A city or town council, board of selectmen, or the village district commissioners may determine that the city or town council member, the selectman member or the village district commission member shall be subject to *a 4 month or an* annual appointment under such conditions as it determines.

3 Number of Alternates Increased; Terms of Alternate Members of Zoning Boards of Adjustment. Amend RSA 673:6, II-a to read as follows:

II-a. An elected zoning board of adjustment may appoint [3] *5* alternate members for a term of 3 years each, *which shall be staggered in the same manner as elected members pursuant to RSA 673:5, II.*

4 Contingent Nullification. If HB 1155 of the 1996 regular session becomes law, section 3 of this act shall not take effect. If HB 1155 does not become law, section 3 of this act shall take effect 60 days after its passage.

5 Effective Date.

I. Section 3 of this act shall take effect as provided in section 4 of this act.

II. The remainder of this act shall take effect 60 days after its passage.

Senator Currier moved adoption.

Adopted.

5988

Enrolled Bill Amendment to SB 518

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the industrial research center and the financial liability of the state for a company's default on matching fund obligations, authorizing the assessment of fees on certain projects, and relative to the disposition of equipment purchased with state funds.

Senator Currier moved adoption.

Adopted.

Recess.

Senator Delahunty in the Chair.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1210, amending the workers' compensation law to provide an exemption from coverage requirements for nonresident employees.

HB 1222, establishing a council on applied technology and innovation.

HB 1341, relative to a corridor study of Route 101.

HB 1410, relative to special revenue funds and relative to the payment of taxes in the town of North Hampton.

HB 1474, relative to legal name changes by individuals.

HB 1488, relative to the New Hampshire bankruptcy laws.

SB 540, modifying the definition of a qualified investment company.

SB 588, relative to tenant eviction proceedings.

Senator Currier moved adoption.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 647-FN-A, relative to transfers from the highway surplus account, relative to tolls charged on the Cheshire Bridge, and requiring that warrant articles concerning the issuance of bonds or notes by the town of Bedford be in accordance with the town charter.

HB 1229-FN-A, allowing owners of privately owned airports to receive partial state reimbursement grants for local property taxes paid on certain areas of such airports and making an appropriation therefor.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1442, relative to children's services.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Channing Brown
Frank Torr
Charles Ferguson
Neal Kurk
Rick Trombly

SENATE ACCEDES TO HOUSE REQUEST

HB 1442, relative to children's services.

Senator Currier moved to accede to the request for a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Currier, Keough, Blaisdell, Barnes.
Alternate: Delahunty.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 651, relative to taxes on simulcast dog racing and establishing a committee to examine certain aspects of the pari-mutuel industry.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 651, relative to taxes on simulcast dog racing and establishing a committee to examine certain aspects of the pari-mutuel industry.

Senator Colantuono moved to nonconcur and requests a Committee of Conference.

Recess.

Out of recess.

SUBSTITUTE MOTION

Senator Blaisdell moved to **substitute concurrence for non concurrence**.

SENATOR COLANTUONO: As the Chairman of the Ways and Means Committee, I just want to review the procedural history of this bill and why I moved for a nonconcurrence and requested a Committee of Conference. This bill originally came in sponsored by Senator Fraser as a bill to give some relief to the horsemen at Rockingham Park. It was originally titled providing for horse racing purse parity. The original intent of the bill was to change the formula in the law for the percentage of how much of the handle goes to purses down at Rockingham Park. In other words, what the original bill would have done, was to take money out of the management of Rockingham Park to give to the horsemen. In the Senate Ways and Means Committee, after the hearing, it was agreed that this was not the way to go, that it was interfering in private business relationships, and it was felt that the horsemen should have gone to the track before filing the bill and that this was just the wrong direction to take. So in the meantime, the horsemen went back and spoke to the track

and came up with a different proposal to get themselves more money which involved taking the breakage money, that otherwise goes to the state. The one half of the breakage money that now goes to the state is in the amount of about \$300,000. So that amendment came into the Ways and Means Committee, and by a vote of three in favor and one opposed and one abstention and two not voting, the Ways and Means Committee approved that amendment. It came to the floor and the Senate adopted that amendment and sent the bill to the Finance Committee. The Finance Committee decided that because of the situation with the budget that we are in, reflected in the action that we took this morning, that we don't have \$300,000 to give for this purpose and decided to delete that. In the meantime, some of the interests representing the dog tracks at Hinsdale and Seabrook came forward, and wanted to use this bill as a vehicle to change the way that we tax the simulcasting at the dog tracks. They felt that they are paying too high of a percentage, relative to what was being paid at Lakes Region following the amendment that was made last year, so they put a proposal forward, and asked that the bill be recommitted to Ways and Means which was done. We held a further public hearing about this issue. It was decided at that time, by the Ways and Means Committee, that we would give relief to the Seabrook and Hinsdale tracks by taking away the current system of taxation, which involved the \$300 minimum flat fee everytime there is a simulcast signal and come down to a 3.5 percent tax, which everyone thought was fair; but at the same time, the Ways and Means Committee made a strong policy statement that we have made a five-year commitment to the Lakes Region Greyhound Track last year, because they had gone out in reliance upon that commitment and made some substantial investments in their track facilities and had hired 20 to 25 new employees and had done a good job, we believe that it was a commitment which we had made that the legislature shouldn't be about the business of going back on our commitments and that we were going to leave them alone in this bill. The Ways and Means Committee put the breakage money back in for the horsemen, the bill came to the floor, the Senate sent it over to the Finance Committee, the Finance Committee, basically, accepted what we did, relative to the dog tracks, but took out the money for the horses again, for the same reason, which was that we didn't have the money. When the bill went to the House, it was completely changed around from the Senate position. What the House did was to increase, in other words, break the commitment to the Lakes Region Park, increase the percentage that they would have to pay, and use that money to send to the horsemen or to make up the money that we were going to send to the horsemen from the TAPE CHANGE as Chairman of the Ways and Means Committee, as is the usual custom when the House puts on a substantially different amendment from the Senate position. I made the motion to nonconcur because I believe, as I have been taught the last six years, by Senator Blaisdell, and I am sure that he has been making that same speech for 20 years, we should be upholding the Senate's position. We should take the position if we believed that we were right then, I believe that we are right now. I would strongly urge the body to uphold the Senate's position by nonconcurring and requesting a Committee of Conference. There is one other important piece on this bill which both parties agreed to, that is a study committee to address the whole problem of taxation at the tracks. It is very important that we pass this bill with that in it so that we can address these problems across the board. I believe that it is accurate to say, I think that I have heard this several times and I believe that it is

accurate to say, that the House Finance Committee put their amendment on without a public hearing. I could be corrected if I am wrong, but in the Senate, we had a public hearing on all of these issues. Thank you.

SENATOR SHAHEEN: Senator Colantuono, I have been told that we have heard from the House, that if we don't concur on this bill, that the House will not deal with the issue in Committee of Conference. Is there any reason to think that the House is taking that position, if we don't concur that the bill would be dead?

SENATOR COLANTUONO: Senator, I would hate to think that we would give in to that kind of statement. The House hasn't taken a vote on that. We don't know what their position is going to be. This bill isn't different from any other bill. I mean if we want to take a Senate position and uphold the Senate's position, then we do it and send it back to the House and let them take whatever action in their wisdom that they deem is appropriate just like whenever they send a bill over to us, we do the same thing. I don't think the body should be in the position of giving ultimatums to either side.

SENATOR SHAHEEN: Let me try and clarify what I just said because . . . have we heard from anyone in the House leadership that they will not give this full consideration should we ask for a Committee of Conference?

SENATOR COLANTUONO: All that I can say, speaking for myself, is that I haven't heard that. I have heard secondhand knowledge that other people have heard that, but I can't personally say that I have heard from my counterpart, the chairman of the Regulated Revenues Committee about this bill at all, actually. But you may want to direct that question to other people in this body.

SENATOR FRASER: Mr. President, in response to the question by Senator Shaheen. Just about three or four minutes ago, I spoke to Representative Robert Kelly who is the chairman of Regulated Revenues and all that I could get out of him was that in all likelihood, the bill, if it is sent back to the House, will die. He said that in the presence of the majority leader, Representative Ann Torr. That was about four minutes ago.

SENATOR CURRIER: I am going to put the dynamics of the bill aside for a minute, because this is what gives me a real queasy feeling in my stomach in terms of the politics of this particular bill. In my eight years in this Senate or what will be eight years in the Senate, a request of a Committee of Conference by one member of a committee for courtesy purposes or whatever, has always been adhered to, at least in my memory. For some reason, before we went to lunch, I heard the rumors about the House not acceding to the request of the Committee of Conference and the bill would be dead. I also heard a rumor that said that the governor has problems with the bill and would probably veto it. All those things aside, the governor's position, as I understood it, was that whatever we did, in the Senate and the House, it had to be revenue neutral. I don't know all of the particulars of what the House did to the bill, but the fact that we are putting all of our trust into what the House did, without us taking another closer look in the Committee of Conference, which is the real process that we have always been involved in here, because of politics, okay, really sours me. It actually nauseates me. I think that we ought to vote this motion down, and request a Committee of Conference. The back door politics or the smoke and mirrors or smoking rooms or what-

ever, will take place during the Committee of Conference, but there has been a lot of that that has taken place since we recessed this morning to this point. It disgusts me.

Recess.

Senator Barnes in the Chair.

SENATOR DANAIS: I stand as a member of the Ways and Means Committee to support Senator Colantuono's motion to abide by the Senate's position. I have sat in both public hearings regarding this bill, in Senate Ways and Means. There was discussion on both sides of the issue and there was a lot of discussion and compromise. When this bill left the Senate Ways and Means Committee for the second time, there was an agreement that all parties were satisfied. It then went to the House in their Finance Committee, then there was a major amendment that was put on. That amendment had no public hearing and then it came back to the Senate. I am of the position that we should go to the Committee of Conference and discuss this, both parties and lobbyists for both positions, for several positions, I should say, not just two, have come up to me in the last couple of days and wanted to speak to me. I basically told all parties that I would rather wait to see if I was going to be one of the designees to the Committee of Conference before I had a conversation with them. I think that there is a lot of room here for compromise. I think that this is a fair and equitable situation. I, for one, stand here in strong opposition to the motion to concur for exactly what Senator Fraser said, that the House is not even going to give us the courtesy to sit down in a room and discuss an issue that is going to be so vital to this state, and they are threatening us to saying, "if you don't accept our position, we are not going to do anything." For that reason alone, I will vote against that motion. Thank you.

Recess.

Senator Delahunty in the Chair.

Question is on the substitute motion to concur.

A roll call was requested by Senator Blaisdell.

Seconded by Senator Pignatelli.

The following Senators voted Yes: Fraser, Rubens, Lovejoy, Roberge, Blaisdell, Stawasz, Pignatelli, Larsen, Barnes, J. King, Russman, Shaheen, Delahunty, Keough, Cohen.

The following Senators voted No: F. King, Gordon, Johnson, Currier, Rodeschin, Wheeler, Colantuono, Danais.

Yeas: 15 - Nays: 8

Motion to concur is adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 7-FN-A, relative to kindergarten aid programs, the establishment of certain kindergarten aid funds, and making an appropriation therefor.

**SENATE NONCONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 7-FN-A, relative to kindergarten aid programs, the establishment of certain kindergarten aid funds, and making an appropriation therefor.

Senator Lovejoy moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Lovejoy, Barnes, Larsen.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 580, relative to liquor licensees.

**SENATE NONCONCURS AND REQUESTS A
COMMITTEE OF CONFERENCE**

SB 580, relative to liquor licensees.

Senator Colantuono moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Barnes, Blaisdell, Rubens.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 511, regulating business practices among motor vehicle manufacturers, distributors, and dealers.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 511, regulating business practices among motor vehicle manufacturers, distributors, and dealers.

Senator Gordon moved to concur.

Adopted.**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 578, relative to the interception and disclosure of wire or oral communications by emergency personnel.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 578, relative to the interception and disclosure of wire or oral communications by emergency personnel.

Senator Podles moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 612, relative to the impaired driver intervention program.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 612, relative to the impaired driver intervention program.

Senator Podles moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 619, relative to the voluntary administration of estates.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 619, relative to the voluntary administration of estates.

Senator Wheeler moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 621-FN, regulating the use of heating, agitating, and other devices in public waters.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 621-FN, regulating the use of heating, agitating, and other devices in public waters.

Senator Roberge moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 622-FN, relative to the custody of remains of deceased persons and the profession of embalmers and funeral directors.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 622-FN, relative to the custody of remains of deceased persons and the profession of embalmers and funeral directors.

Senator Rodeschin moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 151-FN, establishing a special license plate program, including related fees.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: George Katsakiores
 Henry Boormeester
 Sherman Packard
 Arthur Klemm

SENATE ACCEDES TO HOUSE REQUEST

HB 151-FN, establishing a special license plate program, including related fees.

Senator Gordon moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Fraser, F. King, Cohen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1620, relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Gene Chandler
 Edwin Smith
 Merle Schotanus
 Charles Chandler

SENATE ACCEDES TO HOUSE REQUEST

HB 1620, relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas.

Senator Roberge moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Rodeschin, F. King, Pignatelli.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1515-A, establishing a telecommunications assistance program. and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: John Thomas
Ralph Rosen
Robert Holbrook
Anne Grassie

SENATE ACCEDES TO HOUSE REQUEST

HB 1515-A, establishing a telecommunications assistance program.

Senator Wheeler moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Wheeler, Podles, Larsen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1025-FN-L, relative to a 10-year transportation plan, relative to the Derry local exit on I-93, and extending the lapse dates for certain capital appropriations to the department of transportation.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Gene Chandler
John Chandler
Edwin Smith
Henry Sullivan

SENATE ACCEDES TO HOUSE REQUEST

HB 1025-FN-L, relative to a 10-year transportation plan, relative to the Derry local exit on I-93, and extending the lapse dates for certain capital appropriations to the department of transportation.

Senator Keough moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Gordon, J. King, Wheeler.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1134-FN, relative to registration of certain criminal offenders.
and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Donna Sytek
Anne Coughlin
Paul Lamott
George Katsakiores

SENATE ACCEDES TO HOUSE REQUEST

HB 1134-FN, relative to registration of certain criminal offenders.

Senator Gordon moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Lovejoy, Pignatelli.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1450-FN, relative to postsecondary educational assistance for members of the New Hampshire national guard.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Susan Durham
Robert McKinley
Charles Ferguson
William Riley

SENATE ACCEDES TO HOUSE REQUEST

HB 1450-FN, relative to postsecondary educational assistance for members of the New Hampshire national guard.

Senator Lovejoy moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Lovejoy, Stawasz, J. King.

Recess.

Senator Barnes in the Chair.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1564-FN, relative to records of adjudicatory hearings in cases involving child abuse or neglect, children in need of services, and delinquent children; de novo hearings in cases involving child abuse or neglect and children in need of services; and the review panel for dispositional orders on delinquency cases.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Sandra Keans
	Julie Brown
	Marge Hallyburton
	David Allison

SENATE ACCEDES TO HOUSE REQUEST

HB 1564-FN, relative to records of adjudicatory hearings in cases involving child abuse or neglect, children in need of services, and delinquent children; de novo hearings in cases involving child abuse or neglect and children in need of services; and the review panel for dispositional orders on delinquency cases.

Senator Wheeler moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Wheeler, Larsen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1576-FN, relative to extended detoxification of pregnant and post-partum heroin addicts utilizing the controlled drug methadone and relative to lead paint insurance coverage and lead paint risk reduction.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Donnalee Lozeau
	Doris MacIntyre
	William Knowles
	John Hunt

SENATE ACCEDES TO HOUSE REQUEST

HB 1576-FN, relative to extended detoxification of pregnant and post-partum heroin addicts utilizing the controlled drug methadone and relative to lead paint insurance coverage and lead paint risk reduction.

Senator Wheeler moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Wheeler, Rubens, J. King.

Conferee Change: Senator Wheeler is replaced by Senator Barnes.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

HB 1610-FN-L, relative to school administrative units.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Nils Larson
 William Belvin
 Alan Thulander
 Richard Champagne

SENATE ACCEDES TO HOUSE REQUEST

HB 1610-FN-L, relative to school administrative units.

Senator Lovejoy moved to accede and requests a Committee of Conference.

Adopted.

Recess.

Senator Delahunty in the Chair.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Gordon, Rubens, Larsen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate:

HB 1619-A, authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Frank Torr
 Channing Brown
 Neal Kurk
 Charles Vaughn

SENATE ACCEDES TO HOUSE REQUEST

HB 1619-A, authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River.

Senator Russman moved to accede and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Cohen, F. King.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 545, relative to the powers of city councils.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 545, relative to the powers of city councils.

Senator Podles moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Pignatelli, Lovejoy.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

SB 539-FN, requiring all drivers to be tested for evidence of blood alcohol and drug content if involved in a motor vehicle accident causing death.

SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

SB 539-FN, requiring all drivers to be tested for evidence of blood alcohol and drug content if involved in a motor vehicle accident causing death.

Senator Podles moved to nonconcur and requests a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Gordon, Barnes, Cohen.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 561-A, making a supplemental appropriation for capital improvements to the university system of New Hampshire for Lamson library at Plymouth state college.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 561-A, making a supplemental appropriation for capital improvements to the university system of New Hampshire for Lamson library at Plymouth state college.

Senator Keough moved to concur.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 666-FN-A, relative to a multi-jurisdictional fuel tax agreement.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 666-FN-A, relative to a multi-jurisdictional fuel tax agreement.

Senator F. King moved to concur.

Adopted.

HOUSE MESSAGES

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 547-FN-A, requiring the department of safety services, division of safety services, to publish the New Hampshire boaters guide and making an appropriation therefor.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Mike Whalley
	H. Charles Royce
	Sid Lovett
	Arthur Klemm

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 573, relative to the issuance by courts of telephonic emergency temporary orders.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES:	Donna Sytek
	Randy Lyman
	William Knowles
	Olive Morrill

The House of Representatives refuses to accede to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 577, establishing a committee to study the issue of implementing individual withdrawal selection for abortion coverage by an individual in a group policy, including premium implications and administrative costs.

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 599, providing that school nurses shall be authorized to possess and administer certain drugs for disease prevention and emergency treatment, setting forth the duties of school nurses in the control and prevention of communicable disease, and requiring an education and monitoring component for regulating medication administration in a hospice house.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Eleanor Amidon
Richard Warner
Katie Wheeler
Max Sergeant

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 615, relative to property left behind by tenants and relative to damage deposits for pets.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Eric Lindblade
Warren Henderson
Sandra Dowd
Toni Crosby

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 633-FN-A, relative to victim restitution and compensation.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Donnalee Lozeau
William Knowles
Arthur Klemm
Robert Lockwood

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 635-FN, relative to cost of living adjustments for retired firefighters.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Mert Dyer
Myron Steere
Sandy Stettenheim
Robert Wheeler

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 656-FN, expanding drug-free school zones to include Head Start facilities.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Barbara Spear
Stan Searles
Nils Larson
John White

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 1536-FN-A-L, relative to encouraging private purchase, clean up, and restoration of environmentally contaminated sites and making a supplemental appropriation to the department of environmental services.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 331, establishing one elderly exemption to replace the standard elderly exemption and the current optional elderly exemption laws.

HB 1145, authorizing municipalities to charge fees for certain administrative costs connected with excavation permits.

HB 1177, relative to the state board of licensing for foresters.

HB 1271, relative to exposure to infectious disease.

HB 1306, exempting certain health clinics under the licensure law.

HB 1459, relative to disclosure of information by insurers.

HB 1603, relative to the budget for the animal population control program.

HB 1612, requiring the state to transfer ownership of land currently leased from the state by Rockingham county for use as a parking lot for the Rockingham county courthouse to Rockingham county.

Senator Currier moved adoption.

Adopted.

RESOLUTION

Senator J. King moved that the Rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

ANNOUNCEMENTS

LATE SESSION

Third Reading and Final Passage

HB 1442, an act relative to childrens services.

Senator J. King moved that the Senate be in recess until Wednesday, May 29, at 10:00 a.m. for the sole purpose of receiving House Messages and Enrolled Bill Reports and amendments.

Adopted.

In Recess.

Out of Recess.**HOUSE MESSAGE**

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 7-FN-A, relative to kindergarten aid programs, the establishment of certain kindergarten aid funds, and making an appropriation therefor. and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Nils Larson
 Susan Franks
 Charles Ferguson
 Clair Synder

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 539-FN, requiring all drivers to be tested for evidence of blood alcohol and drug content if involved in a motor vehicle accident causing death.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Donna Sytek
 William Knowles
 Everett Weare
 Mert Dyer

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 545, relative to the powers of city councils.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Tom Behrens
 Katherine Metzger
 Robert Brundige
 Linda Foster

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 580, relative to liquor licensees.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Charles Reynolds
 Betsy McKinney
 Jane Clemons
 Robert Kelley

RESOLUTION

Senator Barnes moved that all Bills left in Committee, Laid on the Table or not acted upon by the body in any manner with the exception of those sent to the Court for an opinion of the Justices be by this resolution made Inexpedient to Legislate.

SB 505, prohibiting the taking of bear and deer from a baited area.

SB 522, increasing the income eligibility for child care benefits under AFDC.

SB 543, designating a portion of the business profits tax to be distributed to the cities and towns and making an appropriation therefor.

SB 555, authorizing the sweepstakes commission to establish video lottery game machines and allow electronic games of chance at racetracks and making certain appropriations.

SB 572 relative to teacher professional standards.

SB 584, allowing bond issues to be voted on by official ballot and restricting reconsideration of votes on bond issues.

SB 607, lowering the business profits tax.

SB 628, relative to authority over certain accident scenes.

SB 645, relative to congregate housing and making an appropriation therefor.

SB 652, authorizing the sweepstakes commission to establish a pilot program for electronic games of chance.

HB 1149, relative to permits issued prior to burning materials.

HB 1167, relative to voluntary limits on campaign expenditures.

HB 1264, restricting the sale of certain items.

HB 1320, making a supplemental appropriation for capital improvements to the university system of New Hampshire for the Young Building at Keene state college.

HB 1379, to require financial filings by county and local party committees.

HB 1505, expanding the authority of the commissioner of the department of transportation to use a certain appropriation to purchase airports.

HB 1538 restricting rent increases by manufactured housing park owners and operators after notice of eviction has been issued to tenants because of condemnation or change of use of the manufactured housing park.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following House and Senate Bills:

HB 471, relative to the department of corrections, including a corrections impact statement, abolishing the division of adult services, and changing the title of the warden of the department of corrections.

HB 1543, relative to the confidentiality of records and information collected pursuant to the registration of sexual offenders.

HB 1580, allowing landowners to convey discretionary easements in certain land to the municipality in which the land is located and relative to taxation of land subject to such discretionary easements.

SB 525, relative to declaratory judgments.

SB 548, relative to accidental death benefits for group I and group II members in the New Hampshire retirement system and relative to the definition of earnable compensation.

SB 587, authorizing municipal and county agreements to purchase electricity and energy services.

HB 1267, relative to retail licenses to sell pistols and revolvers and licenses to carry pistols and revolvers.

HB 1364, repealing the law requiring certain annual audits of accident and health insurers.

SB 515, relative to venue arraignment and bail of defaulters and to waivers of driver's license suspensions for certain defaults.

SB 533, relative to economic development and retention rates.

SB 554, requiring the department of resources and economic development, the office of state planning, Pease development authority, and the business finance authority to make annual reports on their economic development programs and allowing state credit unions to participate in the capital access program.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following House and Senate Bills:

HB 1122, modifying the term "compact area" relative to the use of firearms.

HB 1196, relative to the statute of limitations on claims under the consumer protection statutes.

HB 1584, relative to the establishment of a DNA database and to the DNA testing of convicted sexual offenders.

SB 552, relative to life, accident, and health insurance, nonprofit health service corporations, and health maintenance organizations.

SB 611, relative to the duties of real estate licensees.

SB 667, dedicating the new Coos County Justice Center to the memory of the late John D. Morton, Sr.

SJR 20, establishing the New Hampshire Commission on the Smithsonian Festival of American Folklife featuring New Hampshire to be held on the National Mall in Washington, D.C., in 1999.

Senator Stawasz moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following House and Senate Bills:

HB 647, relative to transfers from the highway surplus account, relative to tolls charged on the Cheshire Bridge, and requiring that warrant articles concerning the issuance of bonds or notes by the town of Bedford be in accordance with the town charter.

Senator Stawasz moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following House and Senate Bills:

HB 1229, allowing owners of privately owned airports to receive partial state reimbursement grants for local property taxes paid on certain areas of such airports and making an appropriation therefor.

HB 1333, relative to public assistance for households containing persons with disabilities.

HB 1394, establishing a committee to study the reporting of medical test results to health care consumers.

HB 1562, relative to preventing downshifting of welfare costs to cities and towns.

HB 1590, relative to the workers' compensation administration fund.

SB 502, relative to planning board membership and terms.

SB 518, relative to the industrial research center and the financial liability of the state for a company's default on matching fund obligations, authorizing the assessment of fees on certain projects, and relative to the disposition of equipment purchased with state funds.

SB 590, establishing a committee to study the feasibility of requiring insurers to cover early intervention services.

SB 597, relative to disability retirement benefits.

SB 598, providing that special education state aid follows the pupil.

SB 617, enabling appointment of sewer commissioners and the establishment of municipal boards of public works commissioners.

SB 618, relative to extended terms of imprisonment for stalking and for certain DWI offenses.

Senator Stawasz moved adoption.

Adopted.

INTRODUCTION OF GUESTS

6006

Enrolled Bill Amendment to HB 580-FN

Amend RSA 304-A:50, I as inserted by section 11 of the bill by replacing line 3 with the following:

conduct its business, carry on its operations, and have and exercise the
Amend RSA 304-A:51, II(c) as inserted by section 11 of the bill by replacing it with the following:

(c) Late filing fee under RSA 304-A:47, IV \$50

Amend RSA 304-A:51, II(f) as inserted by section 11 of the bill by replacing it with the following:

(f) Notice of change under RSA 304-A:48 \$35

Amend RSA 421-B:11, II as inserted by section 14 of the bill by replacing line 9 with the following:

RSA 304-A, or an application for registration of a foreign partnership
Senator Currier moved adoption.

Adopted.

6001

Enrolled Bill Amendment to HB 606-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

including certain welfare recipients in the
definition of public employee under the
workers' compensation law.

Senator Currier moved adoption.

Adopted.

5985

Enrolled Bill Amendment to HB 1314

Amend RSA 332-E:2 as inserted by section 51 of the bill by replacing line 3 with the following:

water supply and pollution control,] ***commissioner of the department of***

Amend RSA 430:10 as inserted by section 53 of the bill by replacing line 8 with the following:

the commissioner of the department of environmental services, the

Amend RSA 486:1, I as inserted by section 92 of the bill by replacing line 17 with the following:

directed by the [division of water supply and pollution control, referred

Amend section 107 of the bill by replacing line 7 with the following:
(introductory paragraph), II (introductory paragraph), II(a), IV-V; 146-C:4,

Amend the bill by deleting section 44 and renumbering the original sections 45-115 to read as 44-114, respectively.

Amend paragraph I of section 114 of the bill by replacing line 1 with the following:

I. Sections 11 and 45 of this act shall take effect December 31,

Senator Currier moved adoption.

Adopted.

5982

Enrolled Bill Amendment to HB 1606

Amend section 5 of the bill by replacing line 1 with the following:

5 Unpaid Child Support; Limitation of Debt. RSA 161-C:5, I is

Amend RSA 161-C:5-a, I as inserted by section 6 of the bill by replacing line 3 with the following:

for one month, may be required, ***if deemed appropriate*** by the commissioner

Amend RSA 161-C:5-a, II as inserted by section 6 of the bill by replacing line 1 with the following:

II. The commissioner of the department of

Amend RSA 161-C:5-a, II as inserted by section 6 of the bill by replacing line 6 with the following:

parent may contest the department's action.

Amend RSA 161-C:6, I as inserted by section 7 of the bill by replacing it with the following:

I. The department shall be subrogated to the right of any dependent child or children or person having the care, custody, and control of [said] **such** child or children to prosecute or maintain any support action or execute any administrative remedy existing under the laws of this state to obtain reimbursement of public assistance paid by the department, including, but not limited to, all remedies provided by RSA 167. If a legal order of support enters judgment for an amount of support to be paid by a responsible parent, the department shall be subrogated to the debt created by such order, and [said] **such** money judgment shall be deemed to be in favor of the department. This subrogation shall specifically be applicable to temporary support and maintenance orders and alimony orders up to the amount paid by the department in public assistance moneys to or for the benefit of [said] **such** children on the basis of providing necessities for the caretaker of [said] **such** children. The department shall not be required to seek an amendment to the legal order of support in order to subrogate itself to the rights of the payee.

Amend RSA 161-C:13, II as inserted by section 8 of the bill by replacing line 8 with the following:
by the commissioner or [his] designee who shall proceed to sell such property

Amend RSA 161-C:13, II as inserted by section 8 of the bill by replacing lines 12 and 13 with the following:

not equal to the price so fixed, the commissioner may declare such property to be purchased by the department for such price and pay off all prior mortgages

Amend RSA 161-C:13, II as inserted by section 8 of the bill by replacing line 19 with the following:
distribution established by the department.

Amend RSA 161-C:13, III as inserted by section 8 of the bill by replacing it with the following:

III. Property acquired by the department as [herein] prescribed **in this section** may be sold by the commissioner or [his] designee at public or private sale and the amount realized shall be placed in an appropriate state fund to the credit of the department of health and human services. In all cases of sale[, as aforesaid] **under this section**, the commissioner shall issue a bill of sale or a deed to the purchaser and [said] **such** bill of sale or deed shall be prima facie evidence of the right of the commissioner to make such sale and conclusive evidence of the regularity of [his] **the commissioner's** proceeding in making the sale and shall transfer to the purchaser all right, title and interest of the debtor in [said] **the** property. The proceeds of any such sale, except in those cases [wherein] **in which** the property has been acquired by the department, shall be first applied by the commissioner to pay off prior mortgages or liens, then to reimbursement of the costs of distraint and sale, and thereafter in satisfaction of the delinquent account. Any excess which shall thereafter remain in the hands of the commissioner shall be refunded to the debtor.

Amend RSA 161-C:15 as inserted by section 9 of the bill by replacing line 5 with the following:
the commissioner [and]. Upon such payment the commissioner shall restore

Amend RSA 161-C:26-a, I as inserted by section 10 of the bill by replacing it with the following:

I. Notwithstanding the provisions of RSA 359-C or any other law to the contrary, any obligor who owes child support arrearages payable to or through the department shall be deemed to have authorized disclosure of [his] ***such obligor's*** financial records to consumer reporting agencies by the department.

Amend RSA 161-C:26-a, II and III as inserted by section 11 of the bill by replacing them with the following:

II. Notwithstanding any other law to the contrary, any obligor who owes child support arrearage payable to or through the department shall be deemed to have authorized disclosure of [his] ***such obligor's*** financial records to the department of health and human services by consumer reporting agencies.

III. The department shall give prior notice to the obligor that such financial disclosure is authorized and of the procedures through which [he] ***the obligor*** may contest such financial disclosure. If the obligor contests the financial disclosure pursuant to this section, the department shall provide written findings prior to reporting [said] ***such*** obligor.

Amend RSA 161-C:28 as inserted by section 12 of the bill by replacing line 1 with the following:

161-C:28 Rulemaking. The commissioner is hereby authorized, subject to

Amend section 17 of the bill by replacing lines 2-4 with the following:
Amend RSA 458:17 by inserting after paragraph XIV the following new paragraph:

XV.(a) An order of support, for which there is in effect an

Amend section 17 of the bill by replacing line 17 with the following:
any of the programs listed in RSA 458:17 XV(a), whether or not an

Amend the bill by deleting sections 1, 3, 14, 15, 18, and 19 and renumbering the original sections 2, 4-13, 16, 17, 20, and 21 to read as 1-15, respectively.

Senator Currier moved adoption.

Adopted.

5973

Enrolled Bill Amendment to HB 1594

Amend RSA 263:93-a, II as inserted by section 3 of the bill by replacing line 1 with the following:

II. Any person convicted of violating an out-of-service order while

Amend RSA 263:93-b as inserted by section 3 of the bill by replacing lines 11-21 with the following:

II. The schedule of fines which may be assessed under the provisions of paragraph I shall be as follows:

(a) For employees:

(1) \$1,000 for a first offense.

(2) \$1,000 to \$1,500 for a second offense.

(3) \$1,500 to \$2,500 for a third or subsequent offense.

(b) For an employer:

(1) \$2,500 for a first offense.

(2) \$2,500 to \$5,000 for a second offense.

(3) \$5,000 to \$10,000 for a third or subsequent offense.

III. Prior to the imposition of any administrative fine, the

Senator Currier moved adoption.

Adopted.

6062

Enrolled Bill Amendment to HB 1325

Amend the bill by replacing section 12 with the following:

12 Authority to Establish Trading and Bank Programs. Amend RSA 125-J:2-a to read as follows:

125-J:2-a Trading and Bank Programs. The [division] *department* may establish trading and bank programs regarding discrete emissions reductions, NOx budget allowances, or other emissions reduction credit mechanisms to facilitate compliance with the requirements of the Clean Air Act.

13 Contingency. If HB 1314 of the 1996 regular session becomes law, section 12 of this act shall take effect July 1, 1996, at 12:01 a.m. If HB 1314 does not become law, section 12 of this act shall not take effect.

14 Effective Date.

I. Section 12 of this act shall take effect as provided in section 13 of this act.

II. The remainder of this act shall take effect July 1, 1996.

Senator Currier moved adoption.

Adopted.

5998

Enrolled Bill Amendment to HB 1446-FN

Amend RSA 137-F:3, II as inserted by section 1 of the bill by replacing line 10 with the following:

to the board shall meet the eligibility requirements for registration

Amend RSA 137-F:14, I as inserted by section 1 of the bill by replacing line 3 with the following:

by RSA 137-F:13, I(f) may apply for an interim license. Upon receiving

Amend RSA 137-F:14, III as inserted by section 1 of the bill by replacing line 1 with the following:

III. The interim license shall be effective for one year and may be

Amend RSA 137-F:15, I as inserted by section 1 of the bill by replacing line 5 with the following:

requirements in this state, and the person has applied for a license

Amend RSA 137-F:18, I(g) as inserted by section 1 of the bill by replacing line 1 with the following:

(g) Has violated any trade practice rule for the hearing aid

Amend RSA 137-F:21, II as inserted by section 1 of the bill by replacing line 10 with the following:

jurisdiction or in accordance with specific statutory requirements or

Amend RSA 137-F:22, I as inserted by section 1 of the bill by replacing line 2 with the following:

member of the board may preside at such a hearing and may issue oaths or

Senator Currier moved adoption.

Adopted.

6081

Enrolled Bill Amendment to HB 175-FN

Amend section 6 of the bill by replacing line 2 with the following:

Procedure for Establishing a Budget Committee. Amend RSA 195:12 and RSA 195:12-a,

Amend section 6 of the bill by inserting after line 15 the following new line:

195:12-a Budget Committee.

Amend section 7 of the bill by replacing line 1 with the following:
7 "Annexation" Changed to "Existing Arrangement." Amend RSA 195:14,

Amend section 7 of the bill by replacing line 7 with the following:
agreement or [agreement of annexation] *existing arrangement* provides

Amend section 10 of the bill by replacing line 1 with the following:
10 Section Heading Clarified; Date Deleted. Amend the section heading and

Senator Currier moved adoption.

Adopted.

6088

Enrolled Bill Amendment to HB 1344

Amend paragraph II of section 14 of the bill by replacing line 2 with the following:

decision of a court of competent jurisdiction, the executive director shall

Amend paragraph III of section 14 of the bill by replacing line 1 with the following:

III. Immediately upon the filing by the executive director of a letter,
Senator Currier moved adoption.

Adopted.

6090d

Enrolled Bill Amendment to HB 1508-FN

Amend RSA 260:14, V(a)(6) as inserted by section 1 of the bill by replacing line 4 with the following:

V(a) other than subparagraph V(a)(8).

Amend paragraph I of section 2 of the bill by replacing it with the following:

I. RSA 260:14, XII as inserted by section 1 of this act shall take effect upon its passage.

Senator Currier moved adoption.

Adopted.

6109

Enrolled Bill Amendment to HB 1567

Amend section 2 of the bill by replacing lines 18-19 with the following:
Strike out:

23 Heat, electricity and water	D	198,429	198,429
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Insert:

23 Heat, electricity and water	D	268,168	248,429
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Senator Currier moved adoption.

Adopted.

LATE SESSION RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Wednesday, May 29, 1996 at 10:00 a.m.

Adopted.

Adjournment.

May 29, 1996

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by Bradley J. Bergfalk, the Senate Guest Chaplain.

Integrity is all the rage these days. Unfortunately, its popularity stems from the recognition that there is not enough of it to go around anymore. Admiral Jeremy Boorda, the highest ranking officer in the United States Navy, recently committed suicide. The issue was integrity. The other day, the Evening News Magazine exposed Massachusetts government employees who had acquired disabled parking permits to park free, when they were perfectly capable of parking with the rest of us. The issue is integrity. Stephen Carter, professor of law at Yale Law School has just published a New York Times best seller entitled, you guessed it, Integrity. "Nowadays," he says, "here in America, people seem to spend their time thinking of more and more clever ways to avoid their obligations instead of doing what integrity commands and fulfilling them."

Let me be so brazen to suggest that it isn't the importance of the decisions that you are going to make today that really matters in the long run. Rather, it is the integrity of heart that leads each of you to the convictions that you hold. You will never go wrong with the people of New Hampshire if you sacrifice your ascendancy in state politics on the altar of personal integrity. To that end, will you pray with me?

Lord, enable us to say what we mean and mean what we say so that the driving force of our conviction is not the political winds of change but an integrity of heart that finds its impetus in You. Amen

Senator Keough led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE OF CONFERENCE REPORTS

6083L

COMMITTEE OF CONFERENCE REPORT ON HB 151-FN

The committee of conference to which was referred House Bill 151-FN, An Act establishing a special license plate program, including related fees having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 New Chapter; Special License Plate Program Established. Amend RSA by inserting after chapter 261 the following new chapter:

CHAPTER 261-A

SPECIAL LICENSE PLATE PROGRAM

261-A:1 Purpose. The purpose of this chapter is to establish a program to issue specially designed license plates.

261-A:2 Definitions. In this chapter:

I. "Affinity group" means an organized group of individuals who share a common interest. This shall include, but not be limited to, amateur

radio operators, educational groups, veteran organizations, civic organizations, municipalities, conservation interests, and alumni organizations.

II. "Department" means the department of safety.

III. "Special license plates" means number registration plates issued to members of a requesting affinity group, which may bear a special or distinctive designation.

261-A:3 Special License Plates. The department may issue a special license plate, which may bear a special distinctive designation, for vehicles registered by members of requesting affinity groups. The applicant shall submit to the department of safety the following:

I. Three hundred or more applications signed by those individuals stating their intent to purchase the special license plate being requested. The applications may be in the form of a signed petition.

II. A marketing strategy developed by the requesting affinity group or agency outlining both short-term and long-term marketing plans for the special license plate.

III. A fiscal impact statement outlining the expected revenues.

IV. An application, on a form provided by the department, along with the fee prescribed in RSA 261-A:5.

261-A:4 Program Approval. In order for a requesting affinity group to be considered for approval for the program, it shall submit to the department in writing, the following:

I. Approval to use any graphic device related to the affinity group.

II. The name of the representative who will serve as the point of contact between the department and the affinity group, and who will be responsible for coordinating all activities related to the plate design and issuance.

III. Any graphic device related to the affinity group. Any device submitted shall not resemble in any way the badge or graphic device issued to a peace officer and shall be subject to approval by the commissioner.

261-A:5 Fees.

I. The fee for each special license plate shall be \$40 per initial set of plates with a minimum of 300 orders. The annual renewal fee shall be \$25 per set, in addition to any graphic device related to an affinity group, a person may elect to obtain vanity number plates at no additional cost.

II. All special license plate fees collected shall be deposited into the highway fund as provided in RSA 261-A:6, IV, less the cost which shall be retained by the department to defray administrative and design costs associated with the special license plate.

261-A:6 Replacement; Refund.

I. If a special license plate is defaced and the registrant desires a replacement plate, the owner shall file an application for replacement accompanied by a \$25 fee. A regular series plate may be issued on a temporary basis until a special license plate replacement has been made.

II. If the registrant ceases to be a member of the affinity group, the registrant shall file an application for replacement of the special plate, along with the appropriate replacement plate fee for a regular registration plate.

III. No refund of the license plate fee shall be given by the department after an application has been processed.

IV. All special license plate fees collected under RSA 261-A:5 and 261-A:6, less allowable costs, shall be deposited into the highway fund as unrestricted revenue, except that if in any fiscal year the driver training program is not fully funded as required by RSA 263:52, II, then an

amount necessary to alleviate the deficiency, but not exceeding the amount of fees collected under this section during the fiscal year, shall be appropriated to the driver training fund.

261-A:7 Rulemaking. The commissioner of safety shall adopt rules, pursuant to RSA 541-A, relative to the application form under RSA 261-A:3, IV, and criteria for approval of requests under RSA 261-A:4.

*Conferees on the
Part of the Senate*

Sen. Fraser, Dist. 4
Sen. F. King, Dist. 1
Sen. Cohen, Dist. 24

*Conferees on the
Part of the House*

Rep. G. Katsakiores, Rock. 13
Rep. Boormeester, Merr. 9
Rep. S. Packard, Rock. 29
Rep. Klemm, Rock. 28

Senator Fraser moved concurrence.

Adopted.

5979L

COMMITTEE OF CONFERENCE REPORT ON HB 281

The committee of conference to which was referred House Bill 281, An Act relative to admission requirements for the veterans' home and changing the composition of the board of managers having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 119:2 as inserted by section 1 of the bill by replacing it with the following:

119:2 Board of Managers.

I. The government of the home is vested in the board of managers of the New Hampshire veterans' home. The board shall consist of the commanders of the veterans departments of New Hampshire ex officio, the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, [the Veterans of World War I of the U.S.A., Inc.,] and [5] **6** citizens of the state to be appointed by the governor with the advice and consent of the council.

II. At least [4] **5** of the appointed citizens [must] **shall** have served in the armed forces of the United States in any war in which the United States has been, is, or shall be engaged, and who are, or shall be, honorably discharged or separated from the armed forces under conditions other than dishonorable[; and provided further that]. One appointee shall be a member in good standing of the department of the American Legion, one of the department of the Veterans of Foreign Wars, one of the department of the Disabled American Veterans and [one of the department of the Veterans of World War I of the U.S.A., Inc.] **2 shall be active members of recognized and chartered veterans service organizations, with preference given to World War I veterans.** The [fifth] **sixth** appointee shall be a [woman] **female** member in good standing of the department of the American Legion Auxiliary, the department of the Veterans of Foreign Wars Auxiliary, [and] the department of the Disabled American Veterans Auxiliary [and], **or** the department of the Veterans of World War I of the U.S.A., Inc. Auxiliary. **One member in good standing of the department of the Veterans of World War I of the U.S.A., Inc., may serve as a member emeritus to the board.**

III. [The first appointed member of an auxiliary organization shall begin serving a 2-year term on the date upon which the current 5-year

term of an appointed citizen member expires.] The appointment of a member from an auxiliary organization shall be rotated in the order in which they are listed and each appointed member shall hold office for a 2-year term. The [other appointed] members *of the department of the American Legion, the department of the Veterans of Foreign Wars, and the department of Disabled American Veterans* shall hold office for a term of 5 years and until a successor is appointed and qualified. *The 2 members of recognized and chartered veterans service organizations shall hold office for staggered terms of 3 years each and until a successor is appointed.*

IV. In case of any vacancy on the board an appointment shall be made in the same manner for the unexpired term.

*Conferees on the
Part of the Senate*

Sen. Rodeschin, Dist. 8
Sen. Stawasz, Dist. 12
Sen. Larsen, Dist. 15

*Conferees on the
Part of the House*

Rep. Fields, Hills. 18
Rep. J. Flanders, Rock. 18
Rep. Welch, Rock. 18
Rep. R. Soucy, Hills. 31

Senator Rodeschin moved concurrence.

Adopted.

6074

**COMMITTEE OF CONFERENCE REPORT ON
HB 345-LOCAL**

The committee of conference to which was referred House Bill 345-LOCAL, An Act relative to voluntary payments in lieu of taxes and establishing a committee to recommend legislative changes regarding voluntary payments in lieu of taxes having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the
Part of the Senate*

Sen. Currier, Dist. 7
Sen. Barnes, Dist. 17
Sen. Blaisdell, Dist. 10

*Conferees on the
Part of the House*

Rep. Metzger, Ches. 13
Rep. Cepaitis, Hills. 33
Rep. Patten, Carr. 9
Rep. L. Foster, Hills. 10

Senator Currier moved concurrence.

Adopted.

5906L

COMMITTEE OF CONFERENCE REPORT ON HB 417

The committee of conference to which was referred House Bill 417, An Act relative to investments by town trustees having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing sections 1-3 with the following:

1 Investments by Governmental Entities. Amend RSA 6-B:12, VIII to read as follows:

VIII. Perform all other functions of the state treasury relative to state investment and debt management, including, but not limited to, the making of debt service payments [and], the sale of bonds, **and the preparation of policies for the investment of state funds for yearly review and adoption by the state treasurer.**

2 Investments by Counties. Amend RSA 29:1 to read as follows:

29:1 Duties. The county treasurer shall have custody of all moneys belonging to the county, and shall pay out the same only upon orders of the commissioners. [He] **The county treasurer** shall deposit the same in participation units in the public deposit investment pool established pursuant to RSA 383:22 or in solvent banks in the state, except that funds may be deposited in banks outside the state if such banks pledge and deliver to the state treasurer as collateral security for such deposits United States government obligations, United States government agency obligations, or obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case. Said out-of-state banks shall make a monthly report of such deposits to the state treasurer. The amount of collected funds on deposit in any one bank shall not at any time exceed the sum of its paid-up capital and surplus. The county treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from the county treasury, and of all notes given by the county, with the particulars thereof. At the close of each fiscal year, [he] **the county treasurer** shall make a report to the county, giving a particular account of all [his] **the treasurer's** financial transactions during the year. [He] **The treasurer** shall furnish to the commissioners statements from [his] **the** books, and submit [his] **the** books and vouchers to them and to the county auditors for examination, whenever so requested. Whenever the county treasurer has in [his] custody an excess of funds which are not immediately needed for the purpose of expenditure, [he] **the treasurer** shall, with the approval of the commissioners, invest the same in obligations of the United States government, in participation units in the public deposit investment pool established pursuant to RSA 383:22, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits of banks incorporated under the laws of the state of New Hampshire or in national banks located within this state or the commonwealth of Massachusetts. Any person who directly or indirectly receives any such funds or moneys for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment, an option to have such funds secured by collateral having a value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the county. Only securities defined by the bank commissioner in rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral. **At least yearly, the county treasurer, with the approval of the county commissioners, shall review and adopt an investment for the investment of public funds in conformance with the provisions of applicable statutes.**

3 Investments by Counties. Amend RSA 29:3 to read as follows:

29:3 Excess Funds. Whenever the county treasurer has in [his] custody an excess of funds which are not immediately needed for the purpose of expenditure [he] **the county treasurer** may, with the approval of the

county commissioners and county executive committee, invest the same in short-term obligations of the United States or in participation units in the public deposit investment pool established pursuant to RSA 383:22, upon such terms as shall be approved by the county commissioners. Any person who directly or indirectly receives any such funds or moneys for deposit or for investment in securities of any kind shall, prior to acceptance of such funds, make available at the time of such deposit or investment, an option to have such funds secured by collateral having a value at least equal to the amount of such funds. Such collateral shall be segregated for the exclusive benefit of the county. Only securities defined by the bank commissioner in rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral. ***At least yearly, the county treasurer, with the approval of the county commissioners, shall review and adopt an investment policy for the investment of public funds in conformance with the provisions of applicable statutes.***

*Conferees on the
Part of the Senate*

Sen. Fraser, Dist. 4
Sen. F. King, Dist. 1
Sen. Shaheen, Dist. 21

*Conferees on the
Part of the House*

Rep. Behrens, Sull. 2
Rep. Metzger, Ches. 3
Rep. Fesh, Rock. 13
Rep. L. Foster, Hills. 10

Senator Fraser moved concurrence.

Adopted.

6063L

COMMITTEE OF CONFERENCE REPORT ON HB 530-FN

The committee of conference to which was referred House Bill 530-FN, An Act transferring the functions and duties of the director of the state ski operations having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and
That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by inserting after section 7 the following new sections and renumbering the original sections 8-10 to read as 10-12, respectively:

8 State Park Fund; Park Account; Ski Area Account. RSA 216-A:3-i, is repealed and reenacted to read as follows:

I. The state treasurer shall establish a separate and distinct account to be known as the state park fund. The treasurer shall establish within the state park fund separate and distinct accounts known as the park account and the ski area account. The treasurer shall deposit in said accounts actual revenue derived by the commissioner of the department of resources and economic development in excess of budget expenses from fees, services, accommodations, rentals, revenue from lift and tramway operations, retail sales, and net profit from concession operations, and including any federal moneys which become available, and all donations and gifts. The accounts shall be continuing and nonlapsing.

II. Any funds deposited into the park account and ski account are hereby continually appropriated to and may be expended by the commissioner of the department of resources and economic development only with the prior approval of the governor and council and the fiscal committee, provided that additional funds above those authorized in the

budget are necessary for the division of parks and recreation to provide an adequate level of service and maintenance in the state park system, restore park facilities and for proper operation of the state owned ski areas.

9 New Section; Debt Service for Cannon Tramway. Amend RSA 216-A by inserting after section 3-i the following new section:

216-A:3-j Debt Service for Cannon Tramway. Effective July 1, 1997, debt service for the Cannon Tramway shall be a charge against the general fund.

Conferees on the

Part of the Senate

Sen. Currier, Dist. 7

Sen. F. King, Dist. 1

Sen. Pignatelli, Dist. 13

Conferees on the

Part of the House

Rep. W. Williams, Graf. 3

Rep. Scanlan, Graf. 11

Rep. Schotanus, Sull. 3

Rep. Merritt, Straf. 8

AMENDED ANALYSIS

This bill:

(1) Abolishes the position of the director of state ski operations.

(2) Transfers the duties of the director of state ski operations to the director of parks and recreation.

(3) Establishes a park account and a ski area account in the state park fund.

(4) Requires the debt service for the Cannon Tramway to be a charge against the general fund effective July 1997.

Senator Currier moved concurrence.

SENATOR KEOUGH: Senator Currier, does this have . . . what is the fiscal impact of creating this special fund for FY 97?

SENATOR CURRIER: I don't have that folder on me, so I can't tell you the specifics of the bill. If we could just pass over it, I can send down for my folder and we can get back to it.

Senator Rodeschin moved to have **HB 530-FN**, an act transferring the functions and duties of the director of the state ski operations, laid on the table.

Adopted.

LAIID ON THE TABLE

HB 530-FN, an act transferring the functions and duties of the director of the state ski operations.

6022L

COMMITTEE OF CONFERENCE REPORT ON HB 610-LOCAL

The committee of conference to which was referred House Bill 610-LOCAL, An Act integrating changes in the municipal budget act into the laws relating to towns and school districts having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by inserting after section 2 the following and renumbering the original sections 3-5 to read as 4-6, respectively:

3 New Section; Presentation of Negotiated Cost Items at the Annual Meeting. Amend RSA 32 by inserting after section 5 the following new section:

32:5-a Presentation of Negotiated Cost Items at the Annual Meeting. Cost items, as defined under RSA 273-A:1, IV, shall be presented to the annual town or district meeting in accordance with the procedures established under RSA 32:5. For submission to the legislative body of the annual meeting, cost items must be finalized by the date prescribed in RSA 39:3 for towns and by the date prescribed in RSA 197:6 for school districts. Cost items not negotiated in time to meet these dates may be submitted to the legislative body pursuant to the provisions of RSA 31:5 for towns and RSA 197:3 for school districts.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 7:

6 New Section; Presentation of Negotiated Cost Items at the Annual Meeting. Amend RSA 32 by inserting after section 19 the following new section:

32:19-a Presentation of Negotiated Cost Items at the Annual Meeting. Cost items, as defined under RSA 273-A:1, IV, shall be presented to the annual town or district meeting in accordance with the procedures established under RSA 32:5. For submission to the legislative body of the annual meeting, cost items must be finalized by the date prescribed in RSA 39:3 for towns and by the date prescribed in RSA 197:6 for school districts. Cost items not negotiated in time to meet these dates may be submitted to the legislative body pursuant to the provisions of RSA 31:5 for towns and RSA 197:3 for school districts.

*Conferees on the
Part of the Senate*

Sen. Rodeschin, Dist. 8
Sen. Stawasz, Dist. 12
Sen. Larsen, Dist. 15

*Conferees on the
Part of the House*

Rep. Metzger, Ches. 13
Rep. Patten, Carr. 9
Rep. Putnam, Rock. 15
Rep. L. Foster, Hills. 10

Senator Rodeschin moved concurrence.

Adopted.

6013L

COMMITTEE OF CONFERENCE REPORT ON HB 1025-FN-LOCAL

The committee of conference to which was referred House Bill 1025-FN-LOCAL, An Act relative to a 10-year transportation plan, relative to the Derry local exit on I-93, and extending the lapse dates for certain capital appropriations to the department of transportation having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the
Part of the Senate*

Sen. Gordon, Dist. 2
Sen. J. King, Dist. 18
Sen. Wheeler, Dist. 11

*Conferees on the
Part of the House*

Rep. G. Chandler, Carr. 1
Rep. J. Chandler, Merr. 1
Rep. E. Smith, Ches. 6
Rep. Sullivan, Straf. 3

Senator Gordon moved concurrence.

Adopted.

6010L

COMMITTEE OF CONFERENCE REPORT ON HB 1110-FN

The committee of conference to which was referred House Bill 1110-FN, An Act establishing a study committee relative to electronic information in state government having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 8:

3 Task Force Established. There is established a task force to study the efforts already begun and to examine what further actions are necessary to develop the ability for all agencies in the legislative, executive and judicial branches of New Hampshire state government to generate and maintain information electronically, to transfer and exchange that information, and to make that information accessible and available to the public.

4 Membership. The task force shall consist of the following members:

I. Three representatives appointed by the speaker of the house.

II. Two senators appointed by the president of the senate.

5 Consultation With Certain Persons Encouraged. The task force should seek consultation and input from the following people:

I. The commissioner of the department of administrative services or designee.

II. The commissioner of the department of health and human services.

III. The commissioner of the department of education or designee.

IV. The director of legislative services.

V. The state librarian.

VI. The state archivist.

VII. The commissioner of regional community - technical colleges or designee.

VIII. The director of the office of state planning or designee.

IX. One member appointed by the chief justice of the New Hampshire supreme court.

6 Chairperson; Mileage. The task force shall elect a chairperson from among its members at the first meeting, which shall be called by the first-named house member within 30 days of the effective date of this act. Legislators shall receive mileage at the legislative rate when attending to their duties on the task force.

7 Report. The task force shall submit a report with its recommendations to the speaker of the house, the president of the senate, the house and senate clerks, the governor, and the state library on or before December 1, 1996.

*Conferees on the
Part of the Senate*

Sen. Rodeschin, Dist. 8

Sen. Stawasz, Dist. 12

Sen. Larsen, Dist. 15

*Conferees on the
Part of the House*

Rep. Dyer, Hills. 8

Rep. Holley, Hills. 28

Rep. Beaulieu, Rock. 10

Rep. Asselin, Hills. 47

AMENDED ANALYSIS

This bill allows towns to require, by warrant article, the holding of a public hearing by library trustees, prior to authorizing library trustees to accept a gift of personal property valued at over \$5,000. This bill is contingent upon the adoption of HB 1120 of the 1996 legislative session, which allows towns to adopt a warrant article to accept personal property donated to libraries.

This bill also establishes a task force to examine efforts and determine future actions necessary to develop the ability of state government to maintain, transfer, and provide access to electronic information.

Senator Rodeschin moved concurrence.

Adopted.

6060L

COMMITTEE OF CONFERENCE REPORT ON HB 1134-FN

The committee of conference to which was referred House Bill 1134-FN, An Act relative to the registration of certain criminal offenders having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after section 3 with the following:

4 Effective Date. This act shall take effect 60 days after its passage.

*Conferees on the
Part of the Senate*

Sen. Podles, Dist. 16
Sen. Lovejoy, Dist. 6
Sen. Pignatelli, Dist. 13

*Conferees on the
Part of the House*

Rep. D. Sytek, Rock. 26
Rep. Coughlin, Merr. 16
Rep. LaMott, Graf. 5
Rep. G. Katsakiores, Rock. 13

AMENDED ANALYSIS

This bill establishes a new RSA chapter which requires the registration of persons convicted of the following offenses when the victim is under the age of 18:

- I. Prostitution.
- II. Child pornography.
- III. Kidnapping.
- IV. Criminal restraint.
- V. False imprisonment.

Under current law, registration is required when the offense is aggravated felonious sexual assault, felonious sexual assault, or sexual assault, and for subsequent convictions of indecent exposure.

The bill repeals RSA 632-A:11-632-A:19, on registration of sexual offenders.

Senator Podles moved concurrence.

Adopted.

6011L

COMMITTEE OF CONFERENCE REPORT ON HB 1156

The committee of conference to which was referred House Bill 1156, An Act relative to aircraft landings having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Accessory Uses; Aircraft Landings. Amend RSA 674:16 by inserting after paragraph IV the following new paragraph:

V. In its exercise of the powers granted under this subdivision, the local legislative body of a city, town, or county in which there are located unincorporated towns or unorganized places may regulate and control accessory uses on private land. Unless specifically proscribed by local land use regulation, aircraft take offs and landings on private land by the owner of such land or by a person who resides on such land shall be considered a valid and permitted accessory use.

*Conferees on the
Part of the Senate*

Sen. Gordon, Dist. 2
Sen. Stawasz, Dist. 12
Sen. Cohen, Dist. 24

*Conferees on the
Part of the House*

Rep. Richards, Rock. 23
Rep. G. Katsakiores, Rock. 13
Rep. Krochmal, Hills. 45
Rep. Berube, Straf. 14

AMENDED ANALYSIS

This bill provides that aircraft landings on private land by the owner of such land or a person who resides on such land shall be considered a valid and permitted accessory use on private land, and shall not be unreasonably restricted by local land use control regulation.

Senator Gordon moved concurrence.

Adopted.

6066L

COMMITTEE OF CONFERENCE REPORT ON HB 1171-FN

The committee of conference to which was referred House Bill 1171-FN, An Act relative to fees for number plates:

having considered the same, report the committee is unable to reach agreement.

*Conferees on the
Part of the Senate*

Sen. Currier, Dist. 7
Sen. Keough, Dist. 23
Sen. Blaisdell, Dist. 10

*Conferees on the
Part of the House*

Rep. Holbrook, Belk. 7
Rep. R. Wheeler, Hills. 7
Rep. Klemm, Rock. 28
Rep. M. Hawkinson, Coos 7

Senator Currier moved adoption of the Committee of Conference report.

Adopted.

6075L

COMMITTEE OF CONFERENCE REPORT ON HB 1173-FN-LOCAL

The committee of conference to which was referred House Bill 1173-FN-LOCAL, An Act relative to juvenile court proceedings and victim's rights in the context of delinquency proceedings having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Delinquency Court Sessions; Victim's Rights. Amend RSA 169-B:34 to read as follows:

169-B:34 Court Sessions; ***Access to Information.***

I.(a) All juvenile cases shall be heard separately from the trial of criminal cases, and such hearing shall be held wherever possible in rooms not used for such trials. Only such persons as the parties, their witnesses, their counsel, ***the victim, a victim witness advocate or other person chosen by the victim,*** the county attorney, the attorney general and the representatives of the agencies present to perform their official duties shall be admitted; provided, however, that if the witness is under 16 years of age, the witness' parent or other appropriate adult shall be permitted to be present during the witness' testimony. In those cases where the delinquent act complained of would constitute a felony if the act of an adult, the attorney general and the county attorney of the county in which the offense took place shall receive notice thereof by the court.

(b) *For the purpose of this section, "victim" means a person who suffers direct physical, emotional, psychological, or economic harm as a result of the commission of a crime or delinquent act. "Victim" also includes the immediate family of any victim who is a minor or who is incompetent, or the immediate family of a homicide victim.*

II. *If the victim is unable to attend the hearing under paragraph I, the prosecution, upon request of the victim, may disclose to the victim information disclosed at the hearing.*

III.(a) *At any time after the arrest of a juvenile or the service of a juvenile petition, the following information regarding the juvenile may be disclosed to the victim, upon the victim's request, by a law enforcement agency or the prosecution:*

(1) *Name.*

(2) *Age.*

(3) *Address.*

(4) *Gender.*

(5) *Offense charged.*

(6) *Custody status.*

(b) *The information under subparagraph (a) shall not be unreasonably withheld.*

IV. *It shall be unlawful for a victim to disclose any confidential information to any person not authorized or entitled to access such confidential information. Any person who knowingly discloses such confidential information shall be guilty of a misdemeanor.*

2 Section Heading Revised. The section heading of RSA 169-B:35-a is repealed and reenacted to read as follows:

169-B:35-a Access to Information by Victims of Violent Crime.

3 Victims of Violent Crimes; Access to Information. The introductory paragraphs of RSA 169-B:35-a, II and II(a) are repealed and reenacted to read as follows:

II. In cases where a minor is charged with a violent crime and in addition to the provisions of RSA 169-B:34, a victim of violent crime shall have the rights provided in this paragraph. Upon request to the prosecution, the victim shall be entitled to the following:

(a) Prior to the disposition of the minor pursuant to RSA 169-B:19 or a transfer hearing pursuant to RSA 169-B:24, to:

4 Court Discretion Deleted. Amend RSA 169-B:35-a, II(c) to read as follows:

(c)(1) When the court's jurisdiction over a minor adjudicated for a violent crime terminates pursuant to RSA 169-B:4 or 169-B:19, [the court may in its discretion authorize that] the victim and the arresting law enforcement agency shall receive notice of the termination of the court's jurisdiction and any information concerning the minor's intended residence.

(2) The court may [also] authorize the arresting law enforcement agency to provide information concerning the location of the minor's intended residence to the law enforcement agency of that location if public safety requires such notification.

5 Cross Reference Added. Amend RSA 169-B:35-a, V to read as follows:

V.(a) Except as expressly provided in this section *or RSA 169-B:34*, nothing in this section shall be construed to provide victims with the right to attend proceedings conducted pursuant to RSA 169-B, 170-H, or 621; to participate in decisions concerning the changes in placement, temporary release or furlough, interstate transfer, parole, or release of a minor adjudicated of a violent crime; or to have direct access to the case records or the court records of a minor adjudicated for a violent crime.

(b) Nothing in this section *or RSA 169-B:34* shall be construed as creating a cause of action against the state, a county or municipality, or any of their agencies, instrumentalities or employees, or private providers of residential services to adjudicated delinquents.

(c) Nothing in this section *or RSA 169-B:34* shall be construed as creating any new cause of action or new remedy or right for a criminal defendant.

6 Publication of Identification of Delinquent Minor; Escape from Custody; Danger to Self or Public. Amend RSA 169-B:37 to read as follows:
169-B:37 Publication of Delinquency Restricted.

I. It shall be unlawful for any newspaper to publish, or any radio or television station to broadcast or make public the name or address or any other particular information serving to identify any juvenile arrested, without the express permission of the court; and it shall be unlawful for any newspaper to publish, or any radio or television station to make public, any of the proceedings of any juvenile court. Nothing in this section or RSA 169-B:35 and RSA 169-B:36 shall be construed to prevent publication without using the name of the delinquent of information which shall be furnished by the court about the disposition of a case when the delinquent act would constitute a felony if it were the act of an adult.

II. Notwithstanding paragraph I, the police, with the written approval of the county attorney or the attorney general, may release to the news media the name and photograph of the juvenile if:

*(a) The juvenile has escaped from court-ordered custody; and
(b) The juvenile has not been apprehended and there is good cause to believe the juvenile presents a serious danger to the juvenile or to public safety.*

7 Application. The provisions of this act shall apply to all open cases brought under RSA 169-B, including those open cases which commenced prior to the effective date of this act.

8 Repeal. RSA 169-B:35-a, III, relative to the department of justice developing protocols relative to victim's rights, is repealed.

9 Effective Date. This act shall take effect 60 days after its passage.

*Conferees on the
Part of the Senate*

Sen. Podles, Dist. 16
Sen. Wheeler, Dist. 11
Sen. Pignatelli, Dist. 13

*Conferees on the
Part of the House*

Rep. Lyman, Carr. 5
Rep. Knowles, Straf. 11
Rep. Morrill, Merr. 13
Rep. D. Sytek, Rock. 26

AMENDED ANALYSIS

This bill:

I. Allows the victim to be admitted to delinquency proceedings, and sets forth related procedural requirements.

II. Defines "victim" relative to the crime perpetrated.

III. Authorizes the release of the name and identifying information of a delinquent minor to the news media when such minor has escaped from court-ordered custody, and has failed to be apprehended and there is good cause to believe that the minor presents a serious danger to the minor or to the public safety.

Senator Podles moved concurrence.

Adopted.

5978L

COMMITTEE OF CONFERENCE REPORT ON HB 1194

The committee of conference to which was referred House Bill 1194, An Act clarifying the definition of tenancy to exclude campgrounds and camping parks, recreational vehicles used at motorsport racing facilities and exempting from certain aspects of the laws regulating campgrounds and camping parks having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by deleting section 1 and renumbering the original sections 2-3 to read as 1-2 respectively.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

*Conferees on the
Part of the Senate*

Sen. Pignatelli, Dist. 13
Sen. Roberge, Dist. 9
Sen. Danaïs, Dist. 20

*Conferees on the
Part of the House*

Rep. Gage, Rock. 26
Rep. Krueger, Sull. 9
Rep. Belanger, Rock. 26
Rep. Crosby, Merr. 20

AMENDED ANALYSIS

The bill exempts recreational vehicles used in conjunction with scheduled events at motorsport racing facilities from the laws regulating campgrounds and camping parks, except those provisions regulating the discharge of seepage or waste water.

Senator Pignatelli moved concurrence.

Adopted.

6004L

COMMITTEE OF CONFERENCE REPORT ON HB 1285

The committee of conference to which was referred House Bill 1285, An Act prohibiting sobriety check points having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 New Section; Sobriety Checkpoints; When Allowed. Amend RSA 265 by inserting after section 1 the following new section:

265:1-a Sobriety Checkpoints. Notwithstanding any provision of law to the contrary, no law enforcement officer or agency shall establish or conduct sobriety checkpoints for the purposes of enforcing the criminal laws of this state, unless such law enforcement officer or agency petitions the superior court and the court issues an order authorizing the sobriety checkpoint after determining that the sobriety checkpoint is warranted and the proposed method of stopping vehicles satisfies constitutional guarantees.

*Conferees on the
Part of the Senate*

Sen. Gordon, Dist. 2
Sen. Russman, Dist. 19
Sen. Cohen, Dist. 24

*Conferees on the
Part of the House*

Rep. Weare, Rock. 21
Rep. Gorman, Rock. 8
Rep. Rogers, Merr. 22
Rep. Dunham, Rock. 29

AMENDED ANALYSIS

This bill prohibits law enforcement officials from conducting or establishing sobriety checkpoints, unless the law enforcement officer petitions the superior court and the court issues an order authorizing the sobriety checkpoint and the proposed method of stopping vehicles satisfies constitutional guarantees.

Senator Gordon moved concurrence.

Adopted.

6049L

COMMITTEE OF CONFERENCE REPORT ON HB 1288

The committee of conference to which was referred House Bill 1288, An Act relative to pesticide product registration and establishing a study committee of pesticide product registration policies having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend paragraph I of section 2 of the bill by replacing it with the following:

I. Four house members appointed by the speaker of the house; one of whom shall be from the commerce, small business, consumer affairs, and economic development committee; one of whom shall be from the finance committee; and 2 of whom shall be from the environment and agriculture committee.

*Conferees on the
Part of the Senate*

Sen. F. King, Dist. 1
Sen. Johnson, Dist. 3
Sen. Cohen, Dist. 24

*Conferees on the
Part of the House*

Rep. Philbrick, Carr. 4
Rep. Owen, Merr. 6
Rep. Scanlan, Graf. 11
Rep. F. Torr, Straf. 12

Senator F. King moved concurrence.

Adopted.

5936L

COMMITTEE OF CONFERENCE REPORT ON HB 1289-LOCAL

The committee of conference to which was referred House Bill 1289-L, An Act relative to restrictions on waters used as a public water supply having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 3 with the following:

3 New Section; Notification of Water Withdrawal Required. Amend RSA 481 by inserting after section 13 the following new section:

481:13-a Water Withdrawal; When Notification Required. Notwithstanding any provision of law to the contrary, before any private or municipal water company may withdraw water in excess of 100,000 gallons per day from a well located in one municipality for use in a different municipality, such water company shall provide written notice to the governing body of the municipality in which the well is located. This subsection shall apply only to wells established after the effective date of this section.

having considered the same, report the committee is unable to reach agreement.

*Conferees on the
Part of the Senate*

Sen. Russman, Dist. 19
Sen. Cohen, Dist. 24
Sen. Johnson, Dist. 3

*Conferees on the
Part of the House*

Rep. Dickinson, Carr. 2
Rep. Schotanus, Sull. 3
Rep. Adler, Sull. 5
Rep. P. Bradley, Coos 6

AMENDED ANALYSIS

This bill:

I. Prohibits the construction of any privately owned or maintained boat access area on any public waters which serve as a public water supply without the approval of the department of environmental services and prior consultation of the public water access advisory board and notification to the public utilities commission.

II. Requires a private or municipal water company to provide written notice to the governing body of the municipality where a water source is located prior to withdrawing water in excess of 100,000 gallons per day for use in a different municipality.

III. Authorizes the state, through the department of environmental services, to participate in the federally funded state drinking water revolving loan fund.

Senator Russman moved concurrence.

Adopted.

6069L

COMMITTEE OF CONFERENCE REPORT ON HB 1291

The committee of conference to which was referred House Bill 1291, An Act relative to vandalism and criminal mischief having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 169-B:45, II and III as inserted by section 1 of the bill by replacing them with the following:

II. The court shall, when appropriate, order any child who is found to have committed vandalism of private property to write a formal apology to the victim or victims of such vandalism.

III. The court shall, when appropriate, order any child who is found to have committed vandalism of public property to write a report on the history and significance of that property to the community or on another topic, as determined by the court.

Amend RSA 169-B:45, V as inserted by section 1 of the bill by replacing it with the following:

V. Notwithstanding any other provision of this chapter, the court may order the parent or legal guardian of any child found to have committed vandalism, to submit restitution to the victim or victims of such vandalism by payment in money if the child is in the custody of and residing with such parent or guardian, and if the court finds that the vandalism was a direct result of the parent or legal guardian having neglected to exercise reasonable supervision and control of the child's conduct. For the purposes of this section, liability for compensation shall be limited to \$10,000.

*Conferees on the
Part of the Senate*

Sen. Podles, Dist. 16
Sen. Cohen, Dist. 24
Sen. Pignatelli, Dist. 13

*Conferees on the
Part of the House*

Rep. V. Clark, Rock. 17
Rep. Toomey, Hills. 30
Rep. MacIntyre, Hills. 18
Rep. Hurst, Rock. 22

AMENDED ANALYSIS

This bill redefines "vandalism" and requires the court to order, when appropriate, any minor who is found to have committed vandalism to private property to write a formal apology. It also requires the court to order any minor who is found to have committed vandalism to public property to write a report on the history and significance of that property to the community or on another topic.

This bill allows the court to order minors who have committed vandalism to contribute to the restoration of the property. Current law also allows the court to order restitution payments, service to the injured party, or community service.

This bill also revises the definition of "criminal mischief".

Senator Podles moved concurrence.

Adopted.

6034

COMMITTEE OF CONFERENCE REPORT ON HB 1300

The committee of conference to which was referred House Bill 1300, An Act relative to the enforcement of zoning regulations having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 4 with the following:

4 New Section; Equitable Waiver of Dimensional Requirement. Amend RSA 674 by inserting after section 33 the following new section:

674:33-a Equitable Waiver of Dimensional Requirement.

I. When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA 674:16, the zoning board of adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the board makes all of the following findings:

(a) That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;

(b) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;

(c) That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and

(d) That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

II. In lieu of the findings required by the board under subparagraphs I(a) and (b), the owner may demonstrate to the satisfaction of the board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.

III. Application and hearing procedures for equitable waivers under this section shall be governed by RSA 676:5 through 7. Rehearings and appeals shall be governed by RSA 677:2 through 14.

IV. Waivers shall be granted under this section only from physical layout, mathematical or dimensional requirements, and not from use restrictions. An equitable waiver granted under this section shall not be construed as a nonconforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

*Conferees on the
Part of the Senate*

Sen. Johnson, Dist. 3
Sen. Pignatelli, Dist. 13
Sen. Gordon, Dist. 2

*Conferees on the
Part of the House*

Rep. Patten, Carr. 9
Rep. Rice, Belk. 7
Rep. Brundige, Hills. 18
Rep. McGuirk, Ches. 1

Senator Johnson moved concurrence.

Adopted.

5953L

COMMITTEE OF CONFERENCE REPORT ON HB 1323

The committee of conference to which was referred House Bill 1323, An Act establishing a committee to study the issue of the use, and disposal of sludge or septage, and requiring notification to certain persons before the application of sludge or septage having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the
Part of the Senate*

Sen. Russman, Dist. 19
Sen. Cohen, Dist. 24
Sen. Johnson, Dist. 3

*Conferees on the
Part of the House*

Rep. Showerman, Hills. 7
Rep. Bridgewater, Hills 44
Rep. Camm, Rock. 15
Rep. Owen, Merr. 6

Senator Russman moved concurrence.

Adopted.

6038L

COMMITTEE OF CONFERENCE REPORT ON HB 1331-FN

The committee of conference to which was referred House Bill 1331-FN, An Act relative to clarifying certain provisions under the workers' compensation law having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by deleting sections 7 and 8 and renumbering the original sections 9 and 10 to read as 7 and 8, respectively.

*Conferees on the
Part of the Senate*

Sen. Danais, Dist. 10
Sen. F. King, Dist. 1
Sen. Blaisdell, Dist. 10

*Conferees on the
Part of the House*

Rep. Hawkins, Rock. 20
Rep. McNamara, Ches. 3
Rep. Perkins, Hills. 5
Rep. Palmer, Sull. 11

Senator Danais moved concurrence.

Adopted.

6067L

COMMITTEE OF CONFERENCE REPORT ON HB 1366

The committee of conference to which was referred House Bill 1366, An Act requiring the commissioner of the department of corrections to prepare a quarterly report on department of corrections population management having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 Modification of Commissioner's Duty to Submit a Comprehensive Plan. Amend RSA 21-H:8, X to read as follows:

X. The commissioner shall develop, publish, and periodically revise [a] ***an annual*** comprehensive plan for the state's correctional system which shall indicate, among other things, the department's goals, objectives, resources, current conditions, and needs. The commissioner shall cooperate with the commissioner of the department of youth development services in preparing the juvenile section of the plan required by RSA 621:12, II. The commissioner shall adopt the juvenile section submitted by the commissioner of youth development services without revision. ***The report shall contain information on any substantial modification of existing facilities, the progress on construction of new facilities, and whether such construction or modification is being undertaken by public or private entities. The commissioner shall annually submit such comprehensive plan to the governor and council, speaker of the house, president of the senate, and governing bodies of municipalities where state corrections facilities are located.***

*Conferees on the
Part of the Senate*

Sen. Wheeler, Dist. 11
Sen. Rubens, Dist. 5
Sen. J. King, Dist. 18

*Conferees on the
Part of the House*

Rep. Lozeau, Hills. 30
Rep. Lyman, Carr. 5
Rep. Hansen, Hills. 2
Rep. Rogers, Merr. 22

Senator Wheeler moved concurrence.

Adopted.

6058L

COMMITTEE OF CONFERENCE REPORT ON HB 1399

The committee of conference to which was referred House Bill 1399, An Act establishing 2 new positions in the department of environmental services to implement the sludge permit system; repealing the sewage disposal system fund; relative to sewage disposal system recording fees; and making appropriations from the balance contained in the sewage disposal system fund having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend paragraph II of section 1 of the bill by replacing it with the following:

II. One water pollution sanitarian II, labor grade 18, to assist in the administration of the permit program.

Amend the bill by replacing all after section 1 with the following:

2 Distribution of Sewage Disposal System Fund. The funds contained in the sewage disposal system fund established pursuant to RSA 6:12, I, (ss) shall be distributed as follows:

I. \$95,000 shall be transferred to PAU 03-04-03-07-01 for administration of the septage and sludge permit program in accordance with RSA 485-A:4, XVI-a.

II. \$72,000 shall be transferred to PAU 03-04-03-07-01 for the subsurface systems bureau to improve its computer hardware and software capabilities for archive and in-house recording purposes and for equipment used for the administration of archive and in-house recording.

III. \$25,000 shall remain in the sewage disposal system fund.

IV. Any balance remaining in the fund after the implementation of paragraphs I-III shall lapse to the general fund.

3 Recording Fees for Sewage Disposal Systems. Amend RSA 485-A:30, II to read as follows:

II. Any person submitting plans and specifications for sewage or waste disposal systems shall pay to the division a fee of \$5 for each system for recording the approval for operation number with the registry of deeds. [Such fee shall be the same as that established by the registry of deeds for the recording of such documents.] All fees collected under this section shall be deposited with the state treasurer and reserved in a special nonlapsing sewage disposal system fund which shall be continually appropriated to the division to be used for the administration of this section.

4 Reference Deleted. Amend RSA 485-A:29, II to read as follows:

II. [Approval for operation numbers shall be recorded by the division with the registry of deeds in each county for each system.] Permitted designers of subsurface sewage disposal systems shall obtain the registry of deeds volume and page numbers for each lot that relates to the septic system application and provide them to the division. The division shall develop and approve an outline of brief instructions for the periodic maintenance, care and proper usage of waste disposal systems, including a warning of the potential public health hazard and pollution of public and private water supplies and surface water of the state from improperly maintained sewage and waste disposal systems.

5 Cross-Reference Deleted. Amend RSA 485-A:30, III to read as follows:

III. Any person submitting plans and specifications as a resubmission for reapproval of such shall not be required to pay any additional fee under RSA 485-A:30, I [and II] if changes to such plans and specifications would not constitute a new subdivision under the provisions of RSA 485-A:2, XIII.

6 Sewage Disposal System Fund; Lapse to General Fund; Effective July 1, 2000. Any balance remaining in the sewage disposal system fund, established in RSA 6:12, I(ss), shall lapse to the general fund.

7 Repeal.

I. RSA 6:12, I(ss), relative to the sewage disposal system fund.

II. RSA 485-A:30, II, relative to recording fees for sewage disposal systems.

8 Effective Date.

I. Sections 4-7 of this act shall take effect on July 1, 2000.

II. The remainder of this act shall take effect July 1, 1996.

Conferees on the

Part of the Senate

Sen. Russman, Dist. 19

Sen. Pignatelli, Dist. 13

Sen. Rodeschin, Dist. 8

Conferees on the

Part of the House

Rep. Camm, Rock. 15

Rep. Babson, Carr. 5

Rep. Melcher, Hills. 11

Rep. Schotanus, Sull. 3

AMENDED ANALYSIS

This bill:

(1) Establishes 2 new positions in the department of environmental services to implement the sludge permit system.

(2) Makes appropriations to the department of environmental services from the sewage disposal system fund.

(3) Establishes a \$5 fee for recording of a sewage or waste disposal system with the registry of deeds, which shall be deposited in the sewage disposal system fund.

(4) Repeals the recording requirement, the recording fee, and the sewage disposal system fund as of July 1, 2000.

(5) Lapses any balance in the sewage disposal system fund into the general fund as of July 1, 2000.

Senator Russman moved concurrence.

Adopted.

6020L

COMMITTEE OF CONFERENCE REPORT ON HB 1436

The committee of conference to which was referred House Bill 1436, An Act relative to pecuniary benefits of real estate transactions and loans of directors and officers of charitable trusts and establishing a committee to study the laws relative to charitable trusts having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Only Charitable Service Allowed. RSA 7:19, II is repealed and reenacted to read as follows:

II. Directors, officers, and trustees of charitable trusts shall serve on the governing boards of such charitable trusts only for the charitable purposes of the organization. If such directors, officers or trustees are serving for any other expressed or intended reasons, they shall not serve on the governing board of the organization.

2 New Section; Pecuniary Benefit Transactions. Amend RSA 7 by inserting after section 19 the following new section:

7:19-a Regulation of Certain Transactions Involving Directors, Officers, and Trustees of Charitable Trusts.

I. Definitions. In this section:

(a) "Director, officer, or trustee" means a director, officer, or trustee of a charitable trust.

(b) "Financial interest" means an interest in a transaction exceeding \$500 in value for any officer, director, or trustee, on an annual aggregate basis. An "indirect" financial interest arises where the transaction involves a person or entity of which a director, officer, or trustee, or a member of the immediate family of a director, officer, or trustee, is a proprietor, partner, employee, or officer.

(c) "Pecuniary benefit transaction" means a transaction with a charitable trust in which a director, officer, or trustee of the charitable trust has a financial interest, direct or indirect. However, the following shall not be considered as pecuniary benefit transactions:

(1) Reasonable compensation for services of an executive director, and expenses incurred in connection with official duties of a director, officer, or trustee;

(2) A benefit provided to a director, officer, or trustee or member of the immediate family thereof if:

(A) The benefits are provided or paid as part of programs, benefits, or payments to members of the general public; and

(B) The charitable trust has adopted written eligibility criteria for such benefit in accordance with its bylaws or applicable laws; and

(C) The director, trustee, or family member meets all of the eligibility criteria for receiving such benefit;

(3) A continuing transaction entered into by a charitable trust, merely because a person with a financial interest therein subsequently becomes a director, officer, or trustee of the charitable trust.

(d) "Charitable trust" does not include, for purposes of this section only, an organization qualified as a private foundation under the applicable provisions of the United States Internal Revenue Code.

II. A pecuniary benefit transaction shall be prohibited unless it is in the best interest of the charitable trust and unless all of the following conditions are met:

(a) The transaction is for goods or services purchased or benefits provided in the ordinary course of the business of the charitable trust, for the actual or reasonable value of the goods or services or for a discounted value, and the transaction is fair to the charitable trust;

(b) The transaction is approved by a 2/3 majority of the governing board of the charitable trust:

(1) After full and fair disclosure of the material facts of the transaction to the governing board and after notice and full discussion of the transaction by the board;

(2) Without participation, voting, or presence of any director, officer, or trustee with a financial interest in the transaction or who has had a pecuniary benefit transaction with the charitable trust in the same fiscal year, except as the board may require to answer questions regarding the transaction; and

(3) A record of the action on the matter is made and recorded in the minutes of the governing board;

(c) The charitable trust maintains a list disclosing each and every pecuniary benefit transaction, including the names of those to whom the benefit accrued and the amount of the benefit, and keeps such list available for inspection by members of the governing board and contributors to the charitable trust. The list shall also be reported to the director of charitable trusts each year as part of the charitable trust's annual report required under RSA 7:28;

(d) If the transaction, or the aggregate of transactions with the same director, officer, or trustee within one fiscal year, is in the amount of \$5,000 or more, the charitable trust publishes notice thereof in a newspaper of general circulation in the community in which the charitable trust's principal New Hampshire office is located, (or if there is no such office, then in a newspaper of general circulation throughout the state), and gives written notice to the director of charitable trusts, before consummating the transaction. At a minimum, such notice shall state that it is given in compliance with this section and shall include the name of the charitable trust, the name of any director, officer, or trustee receiving pecuniary benefit from the transaction, the nature of the transaction, and the specific dollar amount of the transaction.

III. Every director, officer, or trustee, or member of the immediate family of such director, officer, or trustee, who engages in a pecuniary benefit transaction with a charitable trust shall provide copies of all contracts, payment records, vouchers, other financial records or other financial documents at the request of the director of charitable trusts in accordance with RSA 7:24. All documents so provided may be disclosed to the public for inspection and copying, subject to applicable confidentiality laws.

IV. Every charitable trust shall adopt policies pertaining to pecuniary benefit transactions and conflicts of interest.

V. No charitable trust shall lend money or property to its directors, officers, or trustees. Any director, officer, or trustee who assents to or participates in the making of any such loan shall be jointly and severally liable to the charitable trust for the amount of such loan until it is repaid.

VI. No charitable trust shall sell, lease for a term of greater than 5 years, purchase, or convey any real estate or interest in real estate to or from an officer, director, or trustee without the prior approval of the probate court after a finding that the sale or lease is fair to the charitable trust. However, this paragraph shall not apply to a bona fide gift of an interest in real estate to a charitable trust by a director, officer, or trustee of the charitable trust.

VII. A pecuniary benefit transaction undertaken in violation of this section is voidable. The director of charitable trust may investigate complaints regarding pecuniary benefit transactions and if, after an investigation pursuant to RSA 7:24, the director determines that a pecuniary benefit transaction is in violation of this section, the director may institute appropriate proceedings under RSA 7:28-f to enforce these provisions.

VIII. Any member of the governing board of a charitable trust shall have standing to petition pursuant to RSA 491:22 for a declaratory judgment that one or more pecuniary benefit transactions of the charitable trust are void.

IX. The provisions of this section shall not apply to transactions between a charitable trust and its incorporators, members, or other contributors who are not also directors, officers, or trustees of the charitable trust, provided that such transactions are fair to the charitable trust.

3 New Section; Size and Membership of Governing Boards. Amend RSA 292 by inserting after section 6 the following new section:

292:6-a Board of Directors of Charitable Nonprofit Corporations. In the interest of encouraging diversity of discussion, connection with the public, and public confidence, the board of directors of a charitable nonprofit corporation shall have at least 5 voting members, who are not of the same immediate family or related by blood or marriage. No employee of a charitable nonprofit corporation shall hold the position of chairperson or presiding officer of the board. This section shall not apply to those nonprofit corporations in existence on the effective date of this section until one year after such effective date, nor to any organization qualified as a private foundation under the applicable provisions of the United States Internal Revenue Code. The provisions of this section may be waived with the approval of the director of charitable trusts after application for such waiver.

4 Committee Established; Duties. There is hereby established a committee to study the laws relative to charitable trusts. The committee shall review any applicable laws and recommend appropriate legislation regarding the regulation of charitable trusts.

5 Membership. The committee shall consist of the following members:

I. Two members of the senate appointed by the president of the senate.

II. Three members of the house of representatives, appointed by the speaker of the house.

6 Chair; Meetings. The first meeting of the committee shall be called by the first-named representative. The chair of the committee shall be chosen at the first meeting.

7 Mileage; Report. Members shall receive at the legislative rate for attending to duties of the committee. The committee shall submit its report with any recommended legislation to the president of the senate, the speaker of the house, the senate clerk, and the house clerk, and the state library on or before November 1, 1996.

8 Effective date. This act shall take effect 60 days after its passage.

*Conferees on the
Part of the Senate*

Sen. Rubens, Dist. 5
Sen. Larsen, Dist. 15
Sen. Roberge, Dist. 9

*Conferees on the
Part of the House*

Rep. Hunt, Ches. 10
Rep. Henderson, Rock. 20
Rep. Krueger, Sull. 9
Rep. M. Clark, Rock. 31

AMENDED ANALYSIS

This bill provides standards for charitable trusts in determining whether a transaction concerning directors, officers or trustees of the trust or immediate family members of such persons is void or voidable because of a pecuniary benefit. This bill also increases the required number of directors of certain charitable nonprofit corporations.

This bill also establishes a study committee to review the laws relative to charitable trusts.

Senator Rubens moved concurrence.

Recess.

Out of recess.

A division is requested.

Senator Rubens withdrew his request.

Senator Barnes moved to have **HB 1436**, An Act relative to pecuniary benefits of real estate transactions and loans of directors and officers of charitable trusts and establishing a committee to study the laws relative to charitable trusts, laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1436, An Act relative to pecuniary benefits of real estate transactions and loans of directors and officers of charitable trusts and establishing a committee to study the laws relative to charitable trusts, laid on the table.

Senator Fraser offered the following Resolution:

6112L
96-2941
08/09

SENATE RESOLUTION 5

A RESOLUTION expressing the senate's position regarding the enforcement of state law concerning community rating methodologies with respect to McDonald's franchisees in the state of New Hampshire.

SPONSORS: Sen. Fraser, Dist 4

COMMITTEE:

ANALYSIS

This senate resolution expresses the senate's position regarding the enforcement of state law concerning community rating methodologies with respect to McDonald's franchisees in the state of New Hampshire and urges the governor to allow such franchisees to continue their participation in their national plan of health care coverage until July 1, 1997.

SR 5

STATE OF NEW HAMPSHIRE

In the year of Our Lord
One Thousand Nine Hundred and Ninety-Six

A RESOLUTION

expressing the senate's position regarding the enforcement of state law concerning community rating methodologies with respect to McDonald's franchisees in the state of New Hampshire.

Whereas, under a national plan of health care coverage, franchise owners of McDonald's in New Hampshire are able to offer employees a full scope of benefits at affordable rates; and

Whereas, an amendment proposed to HB 1207 of the 1996 legislative session would have allowed such franchisees to continue in the national plan of health care coverage by qualifying the group as a franchise association and allowing continuation of the group's rating methodology under the law; and

Whereas, the senate insurance committee held a public hearing on April 17, 1996, on the issue and unanimously agreed to support the proposal; and

Whereas, the senate unanimously voted to adopt the proposal; and

Whereas, due to time constraints there was no opportunity for a public hearing or full debate in the house of representatives and the entire bill was killed in committee of conference; now, therefore, be it

Resolved by the Senate:

That the senate supports the position of allowing McDonald's franchise owners in New Hampshire to continue their participation in their national plan until July 1, 1997, which would allow time for full discussion and debate of the facts surrounding this issue; and

That the senate hereby urges the governor of the state of New Hampshire to allow McDonald's franchise owners to continue their participation in their national plan until July 1, 1997; and

That copies of this resolution be forwarded by the senate clerk to the governor and the commissioner of the state insurance department.

Adopted.

Senator Barnes Rule #42.

TAKEN OFF THE TABLE

Senator Rubens moved to have **HB 1436**, an act relative to pecuniary benefits of real estate transactions and loans of directors and officers of charitable trusts and establishing a committee to study the laws relative to charitable trusts, taken off the table.

Adopted.

6020

COMMITTEE OF CONFERENCE REPORT ON HB 1436

The committee of conference to which was referred House Bill 1436, An Act relative to pecuniary benefits of real estate transactions and loans of directors and officers of charitable trusts and establishing a committee to study the laws relative to charitable trusts.

SENATOR RUBENS: I would like to briefly explain why the conferees in the Committee of Conference adopted this version of HB 1436. The status quo, as we have it right now, in respect to pecuniary benefit transactions, these are transactions that involve a board member of a nonprofit organization of most types who might, for example, own a business that might be supplying something at reduced cost to that nonprofit organization. Right now, that status quo is that all such transactions are prohibited by law. It has cast a very severe cloud on the nonprofit entities throughout the state. The status quo is absolutely untenable, and found to be so, both by the nonprofits and acknowledged by the attorney general's office. So what we attempted to do was to settle the difference between the House version of the bill and the Senate version of the bill. The House version of the bill was very prescriptive and extremely restrictive. It barred many types of transactions, for example, again, a transaction where a very reduced price, product or service might be supplied to a nonprofit organization by a company owned by a board member, to the advantage of a nonprofit organization. The House version barred and banned that. The Conferees agreed on a version of this bill wherein any such transactions above \$5,000 are required to be disclosed by being published in a local newspaper in the headquarters city where a nonprofit

organization may be located. So the approach taken by the Conferees is to shed sunlight on all such transactions and apply public pressure on such transactions. If any such transactions are even perceived to be detrimental to the interest of a nonprofit organization, the board members would likely not engage in such a thing because the fallout would be so harmful. Additionally in this bill, every single one of these transactions, after the transaction is consummated, may be undone, retroactively, by the attorney general's office. So if there are any of these transactions which are found to be objectionable for any reason, not be in the benefit of the nonprofit organization, again, retroactively, it may be undone by the attorney general's office. This is a proper way of doing things. It is the New Hampshire way of doing things. Leaving flexibility in place for the nonprofit organizations, allowing them to obtain from board members, again, a small state allowing them to obtain from board members' companies, advantageous products or services to the benefit of the nonprofit organization. This allows that to take place. If we vote down this Committee of Conference Report, we have to remember that we go back to the status quo that fires all of these, it is casting an extremely severe cloud over the nonprofit institutions of this state. Finally, the Committee of Conference Report here, is backed by my knowledge, all of the nonprofit organizations in the state. Thank you.

SENATOR CURRIER: Senator Rubens, there has been talk about objections in the Committee of Conference Report, could you enlighten us?

SENATOR RUBENS: I am not specifically aware of any language objected by the attorney general. All that I know is what I read in the newspaper. I know of no specific objections. Clearly there is an objection, but I don't know what it is.

SENATOR CURRIER: Thank you.

SENATOR RUBENS: The bill would simply ban a very, very broad array of transactions, again, which was found to be very harmful to the nonprofit organizations in the state.

SENATOR CURRIER: That is the answer?

SENATOR RUBENS: That is the answer.

Recess.

Out of recess.

SENATOR RUSSMAN: TAPE INAUDIBLE is opposed to it. They have worked with the people and the committee throughout the process, voicing their opposition. They tried to come up with an amendment that would open it up, but not to the extent that it is. To my way of thinking, I believe that this particular measure is going to be anticonsumer; ultimately, it is going to be anticharity, in terms of what these charitable trusts are able to do, because there will be a few people, not many, but there will be a few that will abuse the process and abuse the system. Given that, I don't think that it is wise to take the risk. If they want to come back next year and revisit the issue and try to get it right, that is fine, but in the meantime, there is the potential for abuse there. I think when we are going to err, perhaps we ought to err on the side of caution and not go too far too fast. They can talk about the sunshine aspect of this or publication and whatnot, but I think that there are certain interests that are going to, perhaps, make a great deal of money and a great deal of profit on these that serve on some of these boards. I know that in

the legal profession, we have a type of scale where if there is even the slightest impropriety of a breach of conflict of any kind, then you back away from it and you don't get involved with it. I think that while that is a very high and hard standard and maybe this is too hard to have, I think that certainly this particular one goes too far. I would urge you to vote against the measure as opening it up a little bit too much in being subject to abuse.

SENATOR LARSEN: I served on this Committee of Conference and I originally thought that perhaps it was going to be a difficult bill for nonprofits, but having worked with the attorneys from the New Hampshire Charitable Foundation and talking with various nonprofits in the state, it is clear to me that it is far more useful to have a revealing of a relationship, rather than have punitive measures at this point. We have had on the books, language . . . and there is concern that we would put language in the laws which would have a chilling effect on people serving on nonprofit boards. The idea is to encourage people to serve on nonprofit organizations, to encourage people to put their hearts and labor and time into the nonprofits' goals and missions. My belief is that this bill is the best for encouraging nonprofit participation, but revealing any interest that does exist to the public. The public pressure will be on those charities which engage in sweetheart deals that is if it ever were to occur, which is made more difficult through this bill by requiring two-thirds vote of the charitable board, but if it were to occur, it would be fully out there in the newspapers, in the press, that this relationship was occurring and that the nonprofit would lose statute. Any nonprofit that exists in this state, exists only because of public support. So the idea is to have a sunshine bill, have all of these relationships out in the fresh air and looked at regularly by the public, and if there were those abusing the system, they would be dissuaded from doing that by public pressure. I believe that this bill, in essence, encourages participation in nonprofit, which is what we want. It encourages people to put their hearts and work and labor into a nonprofit. I think that it is the best for encouraging people to work on charitable causes and give it their best work effort. So I encourage you to vote for HB 1436. I am comfortable that it does not, in fact, encourage relationships. I know that the nonprofits that contacted us, and as many as we could, we tried to reach, also supported this measure. I think that we have a Committee of Conference that needs to pass this bill.

SENATOR COLANTUONO: My view of this bill, and it is my view of another bill that is going to come up later, is that when we have issues that intimately affect the operation of the attorney general of the state of New Hampshire, we need to listen to the input from the attorney general and make sure that they agree with the way that the bill comes out, because they are the ones who are professionally dealing with these subjects every single day. As a former member of that office, and someone who worked on charitable issues when I worked there, I can't see how I could support a bill that is not fully supported by the Attorney General's office. It is also my view, that when you get a bill so complicated and so contentious that a whole rewrite of five to six pages comes forward as a Committee of Conference report, maybe it is time to take a second look. So I am not saying that the law that we have now is perfect, obviously there needs to be some changes to it, but if we come down to the final hour and we have this large rewrite being put in front of us that the attorney general's office says that they oppose, my view is that I think that we should not accept it and go back to the drawing board and come back next year. Thank you.

SENATOR RUSSMAN: Senator, is it fair to say that what is going to happen here, is that people are going to get on these boards and by being on the board of directors they are going to be able to bid or be able to actually get work from the actual group that they are trying to regulate and they are going to make money and profit for themselves by doing that, is that what is going to happen?

SENATOR COLANTUONO: I would agree that no person should ever profit for being on a nonprofit board. Simple proposition.

SENATOR RUBENS: Very briefly. First of all, the attorney general wanted the version of the bill which would require that office to grant prior approval of all community benefit transactions. So nonprofit boards, and there are thousands around the state, would be sending proposed transactions to the AG's office, who knows how long that they would be backed up with granting those approvals. It would intend to have the effect of disallowing, just the sheer backup or backlog of prior approval requests would tend to prevent nonprofit organizations from obtaining benefits of transactions beneficial to the needs of the nonprofit organizations. Three things about the bill the way that the Conferees put it together: All of these pecuniary benefit transactions are reported to the attorney general's office, not for their approval, but reported to them prior to the consummation of the transaction. Two, any transactions after consummation, found by the AG's office, in the sole opinion of the AG's office, to be detrimental to the purposes of the nonprofit organization, can be undone retroactively by the AG's office. Three, all of these transactions above \$5,000 are published in a local newspaper. This will tend to have an extremely chilling effect on any transaction even perceived to be not in the best interest of the nonprofit organization. No nonprofit organization that wants to survive a month beyond publication of such a transaction would dare to even propose such a transaction. It will achieve the goals that we seek without disallowing the nonprofit organizations from benefiting, not in order to create profit for a board member, but to allow that board member to grant benefits of products and services to a nonprofit organization.

Senator Rubens moved concurrence.

A division vote is requested.

Yeas: 16 - Nays: 7

Committee of Conference report is adopted.

6068L

COMMITTEE OF CONFERENCE REPORT ON HB 1442

The committee of conference to which was referred House Bill 1442, An Act relative to children's services having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Commissioner of Administrative Services; Appointed for 4 Years. Amend RSA 21-I:2, I to read as follows:

I. The commissioner of the department shall be appointed by the governor, with the consent of the council, and shall serve [at the pleasure of the governor] *for a term of 4 years.*

2 Declaration of Estimated Tax. Amend RSA 77-E:5 to read as follows:

I. Every business enterprise having gross business receipts in excess of \$100,000 as defined by RSA 77-E:1, X, during the taxable period or the enterprise value tax base of which is greater than \$50,000, shall, on or before the fifteenth day of the third month in the case of enterprises required to file a United States corporation tax return, and the fifteenth day of the fourth month in the case of all other business enterprises, following expiration of its taxable period, make a return to the commissioner. All returns shall be signed by the business enterprise or by its authorized representative, subject to the pains and penalties of perjury and the penalties provided in RSA 21-J:39.

II. *Every business enterprise shall in addition file a declaration of its estimated business enterprise tax for its subsequent taxable period; provided, however, if the estimated tax is less than \$200, a declaration need not be filed; and provided further that a declaration shall be filed at the end of any quarter thereafter in which estimated tax exceeds \$200. The declaration shall be filed when payments are done under RSA 77-E:6.*

3 Payments of Estimated Tax. Amend RSA 77-E:6 to read as follows: 77-E:6 Payments Due With Returns.

I. *All business enterprises required under RSA 77-A:5, II to make payments of estimated tax shall make such payments in installments as follows: 25 percent is due and payable on the fifteenth day of the fourth month of the subsequent taxable year; 25 percent is due and payable on the fifteenth day of the sixth month of the subsequent taxable year; 25 percent is due and payable on the fifteenth day of the ninth month of the subsequent taxable year; and 25 percent is due and payable on the fifteenth day of the twelfth month of the subsequent taxable year.*

II. If the return required by RSA [77-E:5] 77-E:5, I shows an amount to be due, such amount is due and payable on the prescribed payment date. If such return shows an overpayment of the tax due, the commissioner shall refund such overpayment to the business enterprise or shall allow the enterprise a credit against a subsequent payment or payment due, to the extent of the overpayment, at the enterprise's option.

4 Balanced Budget; Health Care Transition Fund.

I. Notwithstanding RSA 167:71 or any other provision of law to the contrary, if at the close of fiscal year 1995, 1996, or 1997, there is a general fund operating deficit and the net medicaid enhancement revenues received are less than the amounts anticipated for fiscal year 1995, or if at the close of fiscal year 1996 or at the close of fiscal year 1997, the net medicaid enhancement revenues received are less than the budget forecast in 1995, 307:14, the commissioner of administrative services, with the prior approval of the fiscal committee, shall transfer sufficient funds from the health care transition fund to the respective general fund unrestricted revenue accounts to eliminate such shortfall. The amount of the transfer shall not exceed the lesser of the general fund operating deficit or the net medicaid enhancement revenue shortfall.

II. The provisions of RSA 9:13-e, III shall not apply unless the transfer provided for in this section shall be insufficient to eliminate the general fund operations deficit.

III. If at the close of fiscal year 1995, or any subsequent fiscal year, the net medicaid enhancement revenues for that fiscal year are in excess of amounts budgeted, the commissioner of administrative services, with the prior approval of the fiscal committee of the general court, shall

transfer the amount of any excess medicaid enhancement revenue from the general fund into the health care transition fund. The amount of such transfer shall not exceed the amount transferred.

5 Appropriation. The sum of \$760,000 is hereby appropriated to the department of safety from the inventory fund for reflectorized plates under RSA 228:25 for the design, construction and equipping of a warehouse to be located on land owned by the department. Such funds shall be available for expenditure in fiscal years 1996 and 1997. Notwithstanding any law to the contrary, the department shall be authorized to hire an architect to design and contractors to construct and equip the warehouse. The department may use the services of the bureau of public works of the department of transportation if those services are immediately available on the effective date of this section.

6 Effective Date.

I. Sections 2 and 3 of this act shall take effect July 1, 1996 and apply to returns and taxes due on account of taxable periods ending on and after January 1, 1997.

II. The remainder of this act shall take effect upon its passage.

Conferees on the Part of the Senate

Sen. Currier, Dist. 7
Sen. Delahunty, Dist. 22
Sen. Blaisdell, Dist. 10
Sen. Barnes, Dist. 17

Conferees on the Part of the House

Rep. C. Brown, Graf. 14
Rep. F. Torr, Straf. 12
Rep. Ferguson, Hills. 13
Rep. Kurk, Hills. 5
Rep. Trombly, Merr. 4

AMENDED ANALYSIS

This bill:

I. Provides that the commissioner of administrative services shall serve a term of 4 years.

II. Requires business enterprises to file a declaration of its estimated business enterprise tax for the subsequent taxable period, if the estimated tax exceeds \$200.

III. Provides a payment schedule for the estimated tax.

IV. Establishes a procedure for a transfer from the health care transition fund if there is a general fund operating budget deficit and a shortfall in net medicaid enhancement revenues at the close of fiscal year 1995, 1996, or 1997.

V. Appropriates funds to the department of safety from the inventory fund for reflectorized plates within the highway fund for the design, construction, and equipping of a warehouse for the department of safety.

Senator Currier moved concurrence.

Adopted.

Senator Rubens in opposition to HB 1442.

6092L

COMMITTEE OF CONFERENCE REPORT ON HB 1450-FN

The committee of conference to which was referred House Bill 1450-FN, An Act relative to postsecondary educational assistance for members of the New Hampshire national guard having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Postsecondary Educational Assistance. Amend RSA 110-B by inserting after section 63 the following new subdivision:

Postsecondary Educational Assistance

110-B:63-a Title. This subdivision shall be known as the New Hampshire national guard education assistance act.

110-B:63-b Definitions. In this subdivision:

I. "Active member" means a member of a federally-recognized unit of the New Hampshire national guard who meets the minimum requirements for satisfactory membership as defined in Department of the Army and Department of the Air Force regulations.

II. "Degree-enhancing curriculum" means a series of courses programmed to culminate in a specific degree when successfully completed.

III. "Educational assistance" means the waiver of the tuition cost of a course at a state-supported postsecondary institution, provided that there is space available in that course.

IV. "New Hampshire national guard" means federally-recognized units of the New Hampshire national guard.

V. "Space available" means any allocated seating in a course not filled by paying students.

VI. "Tuition" means the total semester, quarter, or classroom hour cost of instruction to the student as established by the university system board of trustees or the board of governors of the regional community-technical institute and colleges.

110-B:63-c Educational Assistance Authorized; Minimum Requirements. Members of the New Hampshire national guard may take courses tuition-free on a space available basis in state-supported postsecondary institutions. In order to be eligible to receive educational assistance under this subdivision, a member of the New Hampshire national guard shall:

I. Be an active member of the New Hampshire national guard residing either in-state or out-of-state who has completed advanced individual training or commissioning.

II. Be enrolled in a degree-enhancing curriculum in any vocational or technical school that is under the authority of the commissioner of regional community-technical colleges, or enrolled in any degree-enhancing curriculum in any public college or university within the state.

III. Have first utilized any federal educational entitlements and national guard scholarship grants.

110-B:63-d Eligibility and Space Availability Determinations.

I. Eligibility for educational assistance provided by this subdivision shall be determined and monitored by the adjutant general, who shall adopt rules, pursuant to RSA 541-A, and procedures deemed by the adjutant general to be necessary to carry out and monitor the educational assistance provided by this subdivision.

II. The chancellor of the university system for the university system and the commissioner of regional community-technical colleges for the regional community-technical institute and colleges shall establish policies for determining when a course has space available.

110-B:63-e Termination of Educational Assistance.

I. Educational assistance may be terminated for the following reasons:

(a) Failure to complete the New Hampshire national guard military obligation.

(b) Failure to maintain a 90 percent rate of attendance at annual training and drill assemblies as required by the New Hampshire national guard.

(c) Nine unsatisfactory drill period performances in a calendar year while enrolled in the educational assistance program.

II. In the event the individual's service in the New Hampshire National Guard is terminated or service becomes unsatisfactory while receiving educational assistance, the individual shall be required to pay for the remainder of the tuition for the course on a pro rata basis. Once terminated for the above causes, an individual shall be ineligible for any further educational assistance under this subdivision.

III. If for any reason an individual is dismissed from any school for academic or disciplinary reasons, the individual shall be ineligible for further educational assistance under this subdivision.

110-B:63-f In-State Tuition for New Hampshire National Guard Nonresidents. Any member of the New Hampshire national guard who is an otherwise eligible out-of-state resident who cannot qualify for educational assistance under this subdivision, due to unavailability of space for members attending tuition free, may take such course at the in-state tuition rate.

2 Applicability. Section 1 of this act shall take effect beginning in the spring 1997 semester, quarter, or term at all state-supported postsecondary institutions. The provisions of section 1 of this act shall be supplemental to any other laws providing educational assistance to active members of the New Hampshire national guard.

3 Study Committee on Postsecondary Educational Assistance for New Hampshire National Guard Members. There is established a committee to study the issue of providing postsecondary educational assistance for members of the New Hampshire national guard. The committee shall:

I. Determine the ability of the national guard to attract and retain members through the availability of tuition-free courses at state-supported postsecondary institutions.

II. Examine other postsecondary educational assistance options to attract and retain national guard members.

III. Assess the fiscal impact on state-supported postsecondary institutions of offering tuition-free courses on a space available basis to national guard members.

IV. Examine programs offered by neighboring states which offer postsecondary educational assistance to state national guard members.

V. Seek the advice of the New Hampshire national guard, the office of the chancellor of the university system, and the office of the commissioner of regional community-technical colleges.

4 Members; Chair; Mileage.

I. The committee shall consist of:

(a) Three house members, one of whom shall be a member of the house education committee, appointed by the speaker of the house.

(b) Three senators, one of whom shall be a member of the senate education committee, appointed by the senate president.

II. The first-appointed house member shall call the first meeting of the committee. The committee shall elect a chairperson at its first meeting. Members shall receive mileage at the legislative rate.

5 Report. The committee shall submit a report of its findings and any recommendations for legislation on or before November 1, 1997, to the speaker of the house, the senate president, the house clerk, the senate clerk, the governor, and the state library.

6 Repeal. RSA 110-B:63-a - 110-B:63-f, relative to postsecondary educational assistance, are repealed.

7 Effective Date.

I. Section 6 of this act shall take effect June 30, 1998.

II. The remainder of this act shall take effect July 1, 1996.

Conferees on the

Part of the Senate

Sen. Lovejoy, Dist. 6

Sen. Stawasz, Dist. 12

Sen. J. King, Dist. 18

Conferees on the

Part of the House

Rep. Durham, Hills. 22

Rep. McKinley, Straf. 2

Rep. Ferguson, Hills. 13

Rep. W. Riley, Ches. 7

AMENDED ANALYSIS

This bill allows New Hampshire national guard members to take courses tuition free on a space available basis in state-supported postsecondary institutions. The bill also allows New Hampshire national guard members who are out-of-state residents to take courses at state-supported postsecondary institutions at in-state tuition rates, if they are unable to take such courses tuition-free because space is not available. This program is repealed on June 30, 1998.

The bill also establishes a study committee on postsecondary educational assistance for members of the New Hampshire national guard.

Senator Lovejoy moved concurrence.

SENATOR ROBERGE: I wanted to point out something that is quite significant in the handout that you have before you. Several lines down it states that the Senate Education Committee recommended interim study. That really is incorrect. The Senate Education Committee recommended a statutory study committee and set one up in statute the usual way with House and Senate members to report before November 1. The Conference Committee, in addition to setting up the same study committee that the Senate Education Committee set up, also decided that they should add a pilot program for the National Guard. The reason that we wanted to study it originally, was because we wanted to be able to determine what other groups might be coming forward for this kind of benefit. I am interested in finding out why we are going forward with this study committee when the Senate Education Committee felt that it was more prudent to study the whole issue, as an issue, right now? There are a lot of worthy groups in this state, and I feel that we should go back to the Senate Education Committee's decision.

SENATOR J. KING: The purpose of putting a pilot study is that it can be done at the same time. At the same time, see if the program works and if it doesn't it is sunsetted for 1998. The whole thing was being done . . . if it doesn't work then, it is going to be sunsetted. If it does work, we are still going to have a study committee going along with the pilot project, but we joined both of the thoughts and made one bill.

SENATOR CURRIER: I don't know if all of you members of the Senate got a letter from brigadier general of the National Guard here in New Hampshire. I think that letter speaks for itself in terms of the symptoms that are in the program that this particular pilot program would do. As Senator King indicated, it is in fact sunsetted. I don't see that this is going to have any extraordinary burden on the university system anymore than anything else that they have to deal with on a daily basis. I would urge the whole Senate to support this.

SENATOR SHAHEEN: Senator Currier, I guess I have a question about the cost of the pilot program. Maybe you can answer this additional question for me. Can you tell me what the actual cost or if there are any estimates about the actual cost to the university system; I assume that means that, therefore, to the state for the pilot program?

SENATOR CURRIER: My understanding, in terms of the way that the program works, it is on an as available basis. If a professor is teaching 15 people and a 16th is added, that cost is almost negligent.

SENATOR SHAHEEN: Senator Currier, can you tell me, and maybe somebody from the Committee of Conference can answer this better, whether the Committee of Conference considered whether there was going to be any actual cost to this program and whether there was any estimates from either the National Guard or the university system relative to potential cost?

SENATOR CURRIER: I am sure that the university system has added or put a significant cost to this in their estimation of what it would cost. In terms of the National Guard, I don't have any idea. That question could probably be answered by a conferee on the committee.

SENATOR J. KING: Senator Shaheen, at the Committee of Conference itself, it was understood that we felt that there was no cost at all and the same feelings prevailed in the Conference Committee that there would be no cost at all, in any vacancy, if you want to call it then, they expect a class of 15 to 20 and there if there are one or two or three or four seats missing, they will go in, so there should be no cost at all. Those are the reasons why we put the pilot study in there and the study committee in at the same time, so we could see how they work and we will come back and tell you what should be done and what should not be done.

SENATOR SHAHEEN: Thank you.

SENATOR RODESCHIN: Senator King, is there anybody getting free tuition now, like a professor's children or teachers children? Is there any free tuition now at UNH, by anybody?

SENATOR RODESCHIN: I don't know about at UNH, but some colleges if you work for the college you get free tuition.

SENATOR RODESCHIN: I want to know about UNH?

SENATOR J. KING: Outside of that, I have no idea.

SENATOR RODESCHIN: Senator Lovejoy, would you know?

SENATOR LOVEJOY: Senator, I don't know of any free tuition. There may be, it is certainly entirely possible. There are hundreds of programs over there and I am certainly not into knowing all of them. I don't know of any.

SENATOR RODESCHIN: Is there any good senator here that knows?

SENATOR CURRIER: The answer is yes, there are programs that they give free tuition if you're something or something or something.

SENATOR RODESCHIN: Thank you very much, Senator Currier. I should have asked you first.

SENATOR CURRIER: There is.

SENATOR COHEN: Senator King, I have concerns about this. There is a study committee being created at the same time there is a pilot program being created. Wouldn't the potential for the cost to the university

system, significant amounts of money for the many different aspects of this implementation of this, but wouldn't it make more sense to have the study committee first, to look at all of the different aspects of it first, to examine the cost of it, and to look at all of the ramifications before putting in a situation that can be sunsetted, but makes a potentially difficult time for the university?

SENATOR J. KING: We felt it wiser to do it this way, that if you do them both together, then if it works, you have already done the pilot study and if that fails, we don't want it. If the study committee comes up with things that are negative and they don't want it, it would all be done within a two-year period. I might add that there are states, Massachusetts being one of them, that do this. I might add also, that one of the reasons that they wanted this is because some of the people are leaving New Hampshire units to go to Massachusetts as a result when their units get too small and New Hampshire loses that unit. So it is a way of trying to induce the people to stay here. I call it sort of a state GI bill without any funding.

SENATOR LOVEJOY: I wasn't going to speak because I haven't been feeling the greatest; however, I find that TAPE CHANGE of the two questions that have been asked. It seems to me that a pilot program is certainly well placed, Mr. President, in the study concept, because it gives that study committee a much better view during their study period than we would without a pilot program. In answer to the question about what it will cost UNH? Well, we don't know. We don't feel that there is going to be a cost. We didn't in the Committee of Conference and we didn't in the policy committee; however, I think that at least some of the expressions that have been made to me from the university system are, that some of the National Guard members that we now have serving the state of New Hampshire, and are paying tuition at UNH, might stop paying tuition if there is a place in the class for them. I really think that is a lousy reason, because we are getting money from those National Guard members who are in turn serving our state and we are saying "Well gee, we shouldn't adopt a program because we are going to stop getting that money." I think that is kind of bad reasoning in my opinion. It seems to me also, that the National Guard of the state of New Hampshire is something that we should be proud of. It is something that we should be working very hard to enhance and to encourage the membership. It seems as though the neighboring states are granting some benefits that we are not granting here in New Hampshire, and we are not only facing a threat of loss of the strength of the National Guard here in this state, but we are facing a real loss of members because we don't have those same in severance. I believe that we should look, certainly, at the National Guard in the state of New Hampshire a something that we should support. Certainly with a bill that we feel isn't going to have a cost to it and certainly with a pilot program that sunsets and certainly as part of an ongoing study program. I encourage you to support the Committee of Conference report.

SENATOR BARNES: I would like to say just a couple of words. Number one, I am going to vote for this bill and I am going to tell you why. As I look around this room, I see some ladies and gentlemen that perhaps benefited from World War II when the veterans were able to go to college. I am one standing here who would not have been able to go back to

college and be married and all of that good stuff as I went through the university, unless the federal government and the state of Massachusetts at the time, gave me some money so that I could go back to UNH and continue my education under the GI bill. I realize that this isn't a federal deal, but the state of Massachusetts helped me continue my education, and I made a promise, forty something years ago, when I graduated, that if there was anything that I could ever do to repay this to other people that I would, and today might be a chance that I have to repay some fellows and gals who are serving our country in our National Guard. If you have heard the comments that the money isn't a big issue in this thing, the big issue is, we are going to allow some of these people who have gone into the National Guard in New Hampshire to continue their education, and what is wrong with that? Thank you very much.

SENATOR GORDON: I don't want to be redundant but I am concerned as other people may be concerned about the fact that we did have a Senate position and we passed the bill, basically because we said that we were going to study this issue. We all realize that this is important, I don't think anybody in this room is opposed to the National Guard or of the National Guard receiving adequate compensation for the services that they perform for the state. That is not really the issue. The issue is whether or not we are going to provide through our educational system, university system, free tuition. To me, it makes no sense to create a study committee and a pilot program at the same time. I don't know why we are doing that. We might as well just have the pilot program and see how it works and then do it that way. I thought that the study was reasonable. I represent the town of Plymouth where Plymouth State College is located. Plymouth State College used to provide free tuition to teachers. We did that for a matter of course. We said if you go, because we want to have teachers, and we need teachers, we will provide free tuition. Now you are going to have to reimburse us for education if you go outside the state to teach, but we will give you free tuition. We did away with that. We did away with that and we put everybody a par and we told everybody that everybody had to pay for their education. I think that we have adopted that standard and that we ought to maintain that standard. I think that there is a different issue here and the issue is whether or not our National Guardsmen are adequately compensated. I don't think that it is fair to compare it to the GI bill. Because the GI bill provided Jack Barnes with money so that he could pursue his education. It did not provide him with free tuition at a university system, that I am aware of. There is a difference between the GI bill. So I would adhere to the Senate's position. I think that we had a strong, correct, intelligent position in the matter. I just don't think that the pilot makes sense. I think that it invites other groups to come in and do exactly the same thing. Don't we need state policemen? Don't we need other people like municipal policemen? Don't we need other people in this state that could benefit from free tuition as well? I think that we do, but we do draw the line? I think that we study it first and then worry about the pilot program.

SENATOR LARSEN: It would be easy to support this bill. I think that it is an issue in which if we could support it, I am concerned that it will cost the state money. We have a message from the University of New Hampshire that it would cost \$100,000 to do this and that is if you just take the students who are currently there. If you assume that another 10 or 20 percent of the National Guard enroll at UNH, it will cost an ad-

ditional \$100,000 to \$400,000 depending on the course loads that they sign up for. We, in the Education Committee, agreed to study this. It makes sense to study it. There are a lot of questions that we don't know here. It is time that we look at the information and make our best judgment. If you set up a pilot study and you had the National Guard attending classes, how are you going to then say that they can't go to school in two years? It is easy to put in a pilot project. I would like to be able to vote for it. I would like to be able to say to the National Guard that they can go, but I would also like to be able to tell low income women, "you can get out of the hole that you're in because we will help you go to school." I would like to be able to tell servicemen, police, fire fighters. I would like to be able to say "Your public service entitles you to free credit at the university." We can't do that. We can't be all things to all people. We need to look at this. I certainly want to encourage participation in New Hampshire's National Guard, but until we know the ramifications of this bill, I don't think that it is right that we vote for it. Let's study it as we proposed, and let's look at it in a couple of years when we know more answers to these questions. So I urge you to vote no on the Committee of Conference report. I say that with sadness that I can't support it.

Senator Blaisdell moved the question.

Adopted.

A roll call was requested by Senator Carrier.

Seconded by Senator Roberge.

The following Senators voted Yes: F. King, Fraser, Rubens, Lovejoy, Carrier, Rodeschin, Blaisdell, Stawasz, Pignatelli, Podles, Barnes, J. King, Danais, Shaheen, Delahunty, Keough.

The following Senators voted No: Gordon, Johnson, Roberge, Wheeler, Colantuono, Larsen, Russman, Cohen.

Yeas: 16 - Nays: 8

Committee of Conference report is adopted.

Recess.

Out of recess.

6059L

COMMITTEE OF CONFERENCE REPORT ON HB 1515-A

The committee of conference to which was referred House Bill 1515-A, An Act establishing a telecommunications assistance program having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 362-E:3, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Eligibility criteria, including ability to pay, which shall be based on income levels which shall not exceed 200 percent of the federal poverty level guidelines published in the Federal Register, exclusive of disability-related expenses.

*Conferees on the
Part of the Senate*

Sen. Wheeler, Dist. 11
Sen. Podles, Dist. 16
Sen. Larsen, Dist. 15

*Conferees on the
Part of the House*

Rep. Thomas, Belk. 3
Rep. Rosen, Belk. 7
Rep. Holbrook, Belk. 7
Rep. Grassie, Straf. 19

Senator Wheeler moved concurrence.

Adopted.

6053L

COMMITTEE OF CONFERENCE REPORT ON HB 1541

The committee of conference to which was referred House Bill 1541, An Act relative to employee leasing companies and temporary help services having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 3 with the following:

3 Amount of Net Worth Modified; Security or Bond Allowed. Amend RSA 277-B:6, I and II to read as follows:

I. Every application for issuance or renewal of a license as an employee leasing company shall be accompanied by, **at a minimum, a reviewed** financial statement prepared by an independent certified public accountant in accordance with generally accepted accounting principles within 6 months prior to the date of application or renewal and such statement shall show a minimum net worth of [\$50,000] **\$100,000**.

II. In addition to the requirement in paragraph I, the commissioner may require an employee leasing company to deposit in a depository designated by the commissioner, **a bond or** securities with a market value [equal to the amount of the minimum net worth required for the issuance or renewal of a license], **deemed sufficient by the commissioner to assure payment of wages and benefits**. The securities so deposited shall include authorization to the commissioner to sell any such securities in an amount sufficient to pay any wages, benefits or other entitlements due a leased employee, if the employee leasing company does not make such payments when due. The commissioner may require such **bond or** deposit only if [he] **the commissioner** finds, **although not limited to such instances**, that the leasing company has had its license suspended, **denied**, or limited in any other jurisdiction; or that there have been instances where the leasing company has not paid employees' wages or benefits when due, or[,] failed to make timely payment of any federal or state payroll taxes or unemployment compensation contributions when due. Any **bond or** securities deposited under this paragraph shall not be included for the purpose of the calculation of net worth required by paragraph I.

*Conferees on the
Part of the Senate*

Sen. Danais, Dist. 20
Sen. Fraser, Dist. 4
Sen. J. King, Dist. 18

*Conferees on the
Part of the House*

Rep. Hawkins, Rock. 20
Rep. Daniels, Hills. 13
Rep. Clegg, Hills. 23
Rep. Mears, Coos 7

Senator Danais moved concurrence.

Adopted.

6052L

COMMITTEE OF CONFERENCE REPORT ON HB 1545

The committee of conference to which was referred House Bill 1545, An Act recognizing the validity of faxed search and arrest warrants and domestic violence orders having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Faxed Warrants and Orders. Amend RSA 490 by inserting after section 27 the following new subdivision:

Faxed Warrants and Orders

490:27-a Validity of Faxed Warrants and Orders. Search warrants, arrest warrants, detention orders pursuant to RSA 169-B, placement orders pursuant to RSA 169-C or RSA 169-D, or domestic violence temporary and final orders may be applied for and issued by facsimile transmission. The original documents, including the warrant application, the warrant, and the supporting affidavit must be received by the court having jurisdiction over the matter within 5 calendar days. The requesting agency shall forward a copy of the application, warrant, supporting affidavit and any other documents to the issuing judge or magistrate by the next business day. For purposes of this section, any oath required in the issuance of said warrants or orders may be taken by the judge or magistrate telephonically. The issuing judge or magistrate shall be responsible for memorializing the substance of any oral statements under oath supplementing the affidavit, as provided in RSA 595-A:4.

*Conferees on the
Part of the Senate*

Sen. Gordon, Dist. 2
Sen. Wheeler, Dist. 11
Sen. Cohen, Dist. 24

*Conferees on the
Part of the House*

Rep. Mercer, Hills. 27
Rep. Holley, Hills. 28
Rep. Goulet, Hills. 15
Rep. H. Williams, Straf. 12

Senator Gordon moved concurrence.

Adopted.

6047L

COMMITTEE OF CONFERENCE REPORT ON HB 1546

The committee of conference to which was referred House Bill 1546, An Act promoting boating safety awareness having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by deleting section 2 and renumbering the original sections 3-4 to read as 2-3, respectively.

*Conferees on the
Part of the Senate*

Sen. Gordon, Dist. 2
Sen. Russman, Dist. 19
Sen. Cohen, Dist. 24

*Conferees on the
Part of the House*

Rep. M. Whalley, Merr. 5
Rep. Crowell, Merr. 2
Rep. D. Scanlan, Graf. 11
Rep. Lovett, Graf. 6

This bill:

AMENDED ANALYSIS

(1) Requires any person operating a vessel on the waters of this state to demonstrate the operator's knowledge of boating safety laws.

(2) Names the new park and ride to be constructed in Plaistow the "Michael C. Weston Memorial Park and Ride."

Senator Gordon moved concurrence.

Adopted.

6095L

COMMITTEE OF CONFERENCE REPORT ON HB 1550

The committee of conference to which was referred House Bill 1550, An Act relative to a lobster management plan and relative to lobster and crab licenses having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 211:18, I as inserted by section 1 of the bill by replacing it with the following:

I. No person shall take lobsters and crabs from any water under the jurisdiction of this state without first procuring a special license to do so. No such taking shall occur during the time from sunset to one hour before sunrise. The executive director shall [issue the special license under rules adopted under] ***adopt rules pursuant to*** RSA 541-A [and in the form prescribed by him] ***relative to the special licenses to be issued including, but not limited to, terms, limits, transferability, sale, exemptions, revocation, and control of entry date, provided that any limitation on the number of licenses issued shall require legislation authorizing such a limitation.***

Amend the bill by replacing section 3 with the following:

3 Effective Date.

I. Section 2 of this act shall take effect June 30, 1998.

II. The remainder of this act shall take effect upon its passage.

*Conferees on the
Part of the Senate*

Sen. Cohen, Dist. 24
Sen. Wheeler, Dist. 11
Sen. Rodeschin, Dist. 8

*Conferees on the
Part of the House*

Rep. Felch, Rock. 21
Rep. Crossman, Rock. 32
Rep. Magoon, Rock. 20
Rep. G. Brown, Straf. 17

Senator Cohen moved concurrence.

Adopted.

6037L

COMMITTEE OF CONFERENCE REPORT ON HB 1555-FN-A

The committee of conference to which was referred House Bill 1555-FN-A, An Act authorizing the commissioner of the department of environmental services to impose administrative fines for certain environmental violations and continually appropriating certain fine revenues having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the
Part of the Senate*

Sen. Russman, Dist. 19
Sen. Cohen, Dist. 24
Sen. Johnson, Dist. 3

*Conferees on the
Part of the House*

Rep. Dyer, Hills. 8
Rep. Holley, Hills. 28
Rep. Goddard, Rock. 33
Rep. Dunn, Merr. 24

Senator Russman moved concurrence.

Adopted.

6077L

COMMITTEE OF CONFERENCE REPORT ON HB 1564-FN

The committee of conference to which was referred House Bill 1564-FN, An Act relative to records of adjudicatory hearings in cases involving child abuse or neglect, children in need of services, and delinquent children; de novo hearings in cases involving child abuse or neglect and children in need of services; and the review panel for dispositional orders on delinquency cases having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Parties' Right to Request Records of Hearings. Amend RSA 169-B by inserting after section 15-a the following new section:

169-B:15-b Records of Hearings; Notification of Right to Appeal. The court shall notify parties of their right to request in advance of any hearing under this chapter that a record of such hearing shall be preserved and made available to the parties.

2 New Section; Parties' Right to Request Records of Hearings. Amend RSA 169-C by inserting after section 14 the following new section:

169-C:14-a Records of Hearings. The court shall notify parties of their right to request in advance of any hearing under this chapter that a record of such hearing shall be preserved and made available to the parties.

3 Record of Adjudicatory Hearing Required. RSA 169-C:18, II is repealed and reenacted to read as follows:

II. A record of the adjudicatory hearing shall be preserved unless expressly waived in writing by the parties, and the parties shall be notified in writing of their right to appeal.

4 Appointment of Attorney for Children in Need of Services; Waiver. RSA 169-D:12 is repealed and reenacted to read as follows:

169-D:12 Appointment of Counsel; Waiver of Counsel.

I. Absent a valid waiver, the court shall appoint counsel for the child at the time of the initial appearance.

II. The court may accept a waiver of counsel from a child alleged to be in need of services only when:

(a) The parent, guardian or custodian did not file the petition;

(b) Both the child and parent, guardian or custodian agree to waive counsel; and

(c) In the court's opinion, the waiver is made competently, voluntarily and with full understanding of the consequences.

5 New Section; Parties' Right to Request Records of Hearings. Amend RSA 169-D by inserting after section 13 the following new section:

169-D:13-a Records of Hearings; Notification of Right to Appeal. The court shall notify parties of their right to request in advance of any hearing under this chapter that a record of such hearing shall be preserved and made available to the parties.

6 New Paragraph; Record of Adjudicatory Hearing Required. Amend RSA 169-D:14 by inserting after paragraph I the following new paragraph:

I-a. A record of the adjudicatory hearing shall be preserved unless expressly waived in writing by the parties, and parties shall be notified in writing of their right to appeal.

7 Judicial Member Not in Agreement with Majority; District Court Order Stands. Amend RSA 169-G:1, I to read as follows:

I. A panel shall be established and shall be available to review dispositional orders of the district court. The panel shall consist of one judge, appointed by the administrative judge of the district court, and 2 lay persons, one appointed by the speaker of the house of representatives and the other appointed by the senate president. In addition, there shall be appointed one alternate judge sitting in a different district court, appointed by the administrative judge of the district court, and 2 lay persons who shall serve as alternates, one appointed by the speaker of the house and the other appointed by the senate president. No lay member of the review panel shall be a legislator or a person involved with the juvenile justice system either for pay or on a voluntary basis. The judge shall serve as panel chairperson. The term shall be for 3 years, and initial appointments to the review panel shall be as follows: one judge and one alternate judge for 3 years; one lay member and the alternate for 2 years; the other lay member and the other alternate for one year. The panel shall meet at such times and places as its business requires, as determined by the chairperson. The decision of 2 members, one of whom shall be a judge, is sufficient to determine any matter before the review panel. ***If the judicial member is not in agreement with the decisions of the other 2 members, the district court order shall remain in place.*** No judge may sit or act on a review of a dispositional order issued by such judge or another justice sitting in the same district court. If the review to be acted on by the panel is a review of the dispositional order issued by the judge serving on the review panel or another justice sitting in the same district court, or if it is inexpedient for a member to attend at the time for which a meeting is called, the panel chairperson shall notify one of the alternates to sit in place of the absent or disqualified member. The review panel may appoint a secretary-clerk, whose compensation shall be fixed by the review panel and paid by the state.

8 Standard of Evidence Specified. Amend RSA 463:15, V to read as follows:

V. The guardianship of the person shall be terminated upon a showing, **by a preponderance of the evidence**, that substitution or supplementation of parental care and supervision is no longer necessary to provide for the essential physical and safety needs of the minor and termination of the guardianship will not adversely affect the minor's psychological well-being.

9 Appointment of Guardian Ad Litem for Neglected or Abused Children; Cost Paid by Indigent Defense Fund. Amend RSA 604-A:1-a to read as follows:

604-A:1-a Neglected or Abused Children. In cases involving **a** neglected or abused [children, legal representation for the children shall be provided] **child, when a guardian ad litem is appointed for the child as provided in RSA 169-C:10, the cost of such appointment shall be paid by the indigent defense fund.**

10 Repeal. RSA 169-C:10-a, relative to the appointment of guardians ad litem in child protections cases, is repealed.

11 Effective Date.

I. Section 9 of this act shall take effect July 1, 1996.

II. The remainder of this act shall take effect January 2, 1997.

*Conferees on the
Part of the Senate*

Sen. Podles, Dist. 16
Sen. Wheeler, Dist. 11
Sen. Larsen, Dist. 15

*Conferees on the
Part of the House*

Rep. Keans, Straf. 16
Rep. J. Brown, Straf. 17
Rep. Hallyburton, Hills. 12
Rep. Allison, Sull. 10

AMENDED ANALYSIS

This bill:

I. Requires that the court notify parties of their right to request records of hearings and that a record of adjudicatory hearings be preserved in delinquency, abuse and neglect, and child in need of services cases.

II. Outlines procedures for the appointment of counsel for children in need of services.

III. Clarifies certain procedural provisions relative to the review panel for dispositional orders in juvenile cases.

IV. Provides that the judicial member of the review panel under RSA 169-G shall make any substituted order in accordance with the decision of the review panel.

V. Provides for the appointment of attorneys at the time of the initial appearance for children in need of services.

VI. Specifies the evidentiary standard for determining guardianship of a minor.

VII. Repeals the provision relative to the appointment of guardians ad litem and court appointed special advocates (CASA) guardians in child protection cases.

Senator Podles moved concurrence.

Adopted.

6002L

COMMITTEE OF CONFERENCE REPORT ON HB 1572-LOCAL

The committee of conference to which was referred House Bill 1572-LOCAL, An Act recodifying and revising the solid waste laws having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 149-M:11, IV(a) as inserted by section 2 of the bill by replacing it with the following:

(a) The concerns of the citizens and governing bodies of the host municipality, county, and district and other affected persons. For any proposed solid waste facility, including transfer stations, designed to accommodate in excess of 30 tons of solid waste per day, the division shall hold at least one public hearing in the host municipality, or in the case of an unincorporated town or unorganized place in the host county, in order to take testimony to identify those concerns.

Conferees on the

Part of the Senate

Sen. Russman, Dist. 19

Sen. Pignatelli, Dist. 13

Sen. F. King, Dist. 1

Conferees on the

Part of the House

Rep. Philbrick, Carr. 4

Rep. Burnham, Ches. 8

Rep. Davis, Coos 1

Rep. Messier, Hills. 46

Senator Russman moved concurrence.

Adopted.

6064L

COMMITTEE OF CONFERENCE REPORT ON HB 1576-FN

The committee of conference to which was referred House Bill 1576-FN, An Act relative to extended detoxification of pregnant heroin addicts utilizing the controlled drug methadone having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as amended by the House.

Conferees on the

Part of the Senate

Sen. Barnes, Dist. 17

Sen. Rubens, Dist. 5

Sen. J. King, Dist. 18

Conferees on the

Part of the House

Rep. Lozeau, Hills. 30

Rep. MacIntyre, Hills. 18

Rep. Knowles, Straf. 11

Rep. Hunt, Ches. 10

Senator Barnes moved concurrence.

Adopted.

6073L

COMMITTEE OF CONFERENCE REPORT ON HB 1593-FN

The committee of conference to which was referred House Bill 1593-FN, An Act establishing a joint legislative committee to study the state

investigation of the late John C. Fairbanks having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose. The purpose of this legislation is to establish a committee to resolve any questions that may remain with respect to the John C. Fairbanks matter and to propose such legislation as may be required to protect the general public.

2 House Committee on the State Investigation of the John C. Fairbanks matter.

I. There is established a committee to study the state investigation of the John C. Fairbanks matter. The committee shall consist of 7 members of the house judiciary and family law committee appointed by the speaker of the house.

II. The committee shall consider the scope and quality of said investigation conducted by any law enforcement agency, the professional conduct committee of the supreme court, and the judicial conduct committee of the supreme court of the state of New Hampshire.

III. Subpoenas may be issued, if necessary, by order of the house, and shall be signed by the speaker of the house, and attested to by the house clerk, according to the provisions of house rule #6 (Manual of the 1995-1996 New Hampshire General Court, p. 121).

IV. The proceedings of the committee shall be recorded and transcribed. The records and transcripts of the proceedings of the committee shall be public documents.

3 Meetings; Mileage. The first-named member shall call the first meeting of the committee within 30 days of the effective date of this act. The committee shall elect a chairperson at its first meeting. Committee members shall receive mileage at the legislative rate.

4 Report. The committee shall submit a report of its findings and any recommendations for legislation to the speaker of the house, the senate president, the governor, the house clerk, the senate clerk, and the state library on or before December 1, 1996.

5 Effective Date. This act shall take effect upon its passage.

*Conferees on the
Part of the Senate*

Sen. Podles, Dist. 16

Sen. Gordon, Dist. 2

Sen. Cohen, Dist. 24

*Conferees on the
Part of the House*

Rep. Lockwood, Merr. 9

Rep. Hart, Hills. 37

Rep. Jacobson, Merr. 2

Rep. DePecol, Ches. 14

Senator Podles moved concurrence.

Adopted.

6019L

COMMITTEE OF CONFERENCE REPORT ON HB 1547

The committee of conference to which was referred House Bill 1547, An Act relative to discovery in criminal cases having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Discovery in Criminal Cases. Amend RSA by inserting after chapter 603 the following new chapter:

CHAPTER 603-A

DISCOVERY IN CRIMINAL CASES

603-A:1 Legislative Findings and Policy. The legislature finds and declares that:

I. Procedures prior to trial should, consistent with the constitutional rights of the defendant:

(a) Promote a fair and expeditious disposition of the charges, whether by diversion, plea, or trial.

(b) Provide the defendant with sufficient information to make an informed plea.

(c) Permit thorough preparation for trial and minimize surprise at trial.

(d) Reduce interruptions and complications during trial and avoid unnecessary and repetitious trials by identifying and resolving prior to trial any procedural, collateral, or constitutional issues.

(e) Minimize the procedural and substantive inequities among similarly situated defendants.

(f) Effect economies in time, money, judicial resources, and professional skills by minimizing paperwork, avoiding repetitious assertions of issues, and reducing the number of separate hearings.

(g) Minimize the burden upon victims and witnesses.

II. These goals can be served by:

(a) Full and free exchange of appropriate discovery.

(b) Simpler and more efficient procedures.

(c) Procedural pressures for expediting the processing of cases.

603-A:2 Applicability of Chapter. This chapter shall apply to all criminal cases. Discovery procedures may be more limited than those described in this chapter in cases involving minor offenses, provided the procedures are sufficient to permit the party adequately to investigate and prepare the case.

603-A:3 Relationship to Other Laws. The provisions of this chapter are supplementary to other laws or court rules pertaining to discovery in criminal cases. The provisions of this chapter shall not be construed to limit or repeal any other law or court rules pertaining to discovery in criminal cases, unless such law or rule is contrary to the policy of this chapter.

603-A:4 Definitions. For the purpose of this chapter:

I. A "written statement" of a person means:

(a) Any statement in writing that is made, signed or adopted by that person; and

(b) The substance of a statement made by that person that is embodied or summarized in any writing or recording, whether or not specifically signed or adopted by that person. The term is intended to include statements contained in police or investigative reports, but does not include attorney work product.

II. An "oral statement" of a person means the substance of any statement by that person, whether or not reflected in any existing writing or recording.

III. A "criminal case" means a formal prosecution commenced by indictment, information, or complaint, filed with the appropriate court.

603-A:5 Prosecutorial Disclosure.

I. The prosecution shall, within a specified and reasonable time prior to trial, disclose to the defense the following information and material and permit inspection, copying, testing, and photographing of disclosed documents or tangible objects:

(a) All written and all oral statements of the defendant or of any codefendant that are within the possession or control of the prosecution that relate to the offense charged and that were generated during investigation of the charged offense, and any documents relating to the acquisition of such statements.

(b) The names and addresses of all persons known to the prosecution to have information concerning the offense charged, together with all written statements of any such person that are within the possession or control of the prosecution and that were generated during investigation of the charged offense. The prosecution shall also identify the persons it intends to call as witnesses at trial.

(c) The relationship, if any, between the prosecution and any witness it intends to call at trial, including the nature and circumstances of any agreement, understanding, or representation between the prosecution and the witness that constitutes an inducement for the cooperation or testimony of the witness.

(d) Any reports or written statements of experts made in connection with the case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons. With respect to each expert whom the prosecution intends to call as a witness at trial, the prosecutor shall also furnish to the defense a curriculum vitae and the expert's opinion, and the underlying basis of that opinion.

(e) Any tangible objects, including books, papers, documents, police officer's notes, photographs, buildings, places, or any other objects which pertain to the case or which were obtained from or belong to the defendant. The prosecution shall also identify which of these tangible objects it intends to offer as evidence at trial.

(f) Any record of prior criminal convictions, pending charges, or probationary status of the defendant or of any codefendant, and, insofar as known to the prosecution, any record of convictions, pending charges, or probationary status that may be used for impeachment of any witness to be called by either party at trial.

(g) Any material, documents or information relating to lineup, showups, and picture or voice identifications in relation to the case.

(h) Any material or information within the prosecutor's possession or control which tends to negate the guilt of the defendant as to the offense charged or which would tend to reduce the punishment of the defendant.

II. If the prosecution intends to use character, reputation, or other act evidence, the prosecution shall notify the defense of that intention and of the substance of the evidence to be used.

III. If the defendant's conversations or premises have been subjected to electronic surveillance, including wiretapping, in connection with the investigation or prosecution of the case, the prosecution shall inform the defense of that fact.

IV. If any tangible object which the prosecutor intends to offer at trial was obtained through a search and seizure, the prosecution shall disclose to the defense any information, documents, or other material relating to the acquisition of such objects.

603-A:6 Defense Disclosure.

I. The defense shall, within a specified and reasonable time prior to trial, disclose to the prosecution the following information and material and permit inspection, copying, testing, and photographing of disclosed documents and tangible objects:

(a) The names and addresses of all witnesses, other than the defendant, whom the defense intends to call at trial, together with all statements of any witness either party intends to call at trial that are within the possession or control of the defense and that relate to the subject matter of the testimony of the witness.

(b) Any reports or written statements made in connection with the case by experts whom the defense intends to call at trial, including the results of physical or mental examinations and of scientific tests, experiments, or comparisons that the defendant intends to offer as evidence at trial. For each such expert witness, the defense shall also furnish to the prosecution a curriculum vitae and the expert's opinion, and the underlying basis of that opinion.

(c) Any tangible objects, including books, papers, documents, photographs, buildings, places, or any other objects, which the defense intends to introduce as evidence at trial.

II. If the defense intends to use character, reputation, or other act evidence not relating to the defendant, the defense shall notify the prosecution of that intention and of the substance of the evidence to be used.

III. If the defense intends to rely upon a claim of self defense, alibi, or an affirmative defense, the defense shall notify the prosecution of that intent and of the names of the witnesses who may be called in support of that defense.

603-A:7 The Person of the Defendant.

I. After the initiation of judicial proceedings, the defendant shall, upon the prosecution's request, appear within a time specified for the purpose of permitting the prosecution to obtain fingerprints, photographs, handwriting exemplars, or voice exemplars from the defendant, or for the purpose of having the defendant appear, move, or speak for identification in a lineup or try on clothing or other articles. Whenever the personal appearance of the defendant is required for the foregoing purposes, reasonable notice of the time and place of such appearance shall be given by the prosecuting attorney to the defendant and the defendant's counsel.

II. Upon motion by the prosecution, with reasonable notice to defendant and defendant's counsel, the court shall, upon an appropriate showing, order the defendant to appear for the following purposes:

(a) To permit the taking of specimens of blood, urine, saliva, breath, hair, nails, and material under the nails;

(b) To permit the taking of samples of other materials of the body;

(c) To submit to a reasonable physical or medical inspection of the body; or

(d) To participate in other reasonable and appropriate procedures.

III. The motion and order pursuant to paragraph II above shall specify the following information where appropriate: the authorized procedure, the scope of the defendant's participation, the name or job title of the person who is to conduct the procedure, and the time, duration, place, and other conditions under which the procedure is to be conducted.

IV. The court shall issue the order sought pursuant to paragraph III if it finds that:

(a) The appearance of the defendant for the procedure specified may be material to the determination of the issues in the case;

(b) The procedure is reasonable and will be conducted in a manner which does not involve an unreasonable intrusion of the body or an unreasonable affront to the dignity of the individual; and

(c) The request is reasonable.

V. Defense counsel may be present at any of the foregoing procedures except a psychiatric examination, unless otherwise ordered by the court.

603-A:8 Obtaining Nontestimonial Information From Third Parties.

I. Upon motion by either party, if the court finds that there is good cause to believe that the evidence sought is material to the determination of the issues in the case, the court shall in advance of trial issue compulsory process for the following purposes:

(a) To obtain documents and other tangible objects in the possession of persons not parties to the case.

(b) To allow the entry upon property owned or controlled by persons not parties to the case. Such process shall be issued if the court finds that the party requesting entry has met the standard that the government would be required to meet to obtain access to the property at issue.

(c) To obtain from a third party fingerprints, photographs, handwriting exemplars, or voice exemplars, or to compel a third party to appear, move, or speak for identification in a lineup, to try on clothing or other articles, to permit the taking of specimens of blood, urine, saliva, breath, hair, nails, or other materials of the body, to submit to a reasonable physical or medical inspection of the body, or to participate in other reasonable and appropriate procedures. Such process shall be issued if the court finds that:

(1) The procedure is reasonable and will be conducted in a manner which does not involve an unreasonable intrusion of the body or an unreasonable affront to the dignity of the individual; and

(2) The request is reasonable.

II. The motion and the order shall specify the following information where appropriate:

(a) The authorized procedure;

(b) The scope of participation of the third party;

(c) The name or job title of the person who is to conduct the procedure; and

(d) The time, duration, place and other conditions under which the procedure is to be conducted.

III. A person whose interests would be affected by the compulsory process sought shall have the right and a reasonable opportunity to move to quash the process on the ground that compliance would subject the person to an undue burden, or would require the disclosure of material that is privileged or otherwise protected from disclosure, or would otherwise be unreasonable.

603-A:9 Preservation of Evidence and Testing or Evaluation by Experts.

I. If either party intends to destroy or transfer out of its possession any objects or information otherwise discoverable under this chapter, the party shall give notice to the other party sufficiently in advance to afford that party an opportunity to object or take other appropriate action. This paragraph shall not apply to real property.

II. Upon motion, either party shall be permitted to conduct evaluations or tests of physical evidence in the possession or control of the other party which is subject to disclosure. The motion shall specify the nature of the test or evaluation to be conducted, the names and qualifications of the experts designated to conduct evaluations or tests, and the material upon which such test will be conducted. The court may make such

orders as are necessary to make the material to be tested or examined available to the designated expert. The court shall condition its order so as to preserve the integrity of the material to be tested or evaluated. If the material is contraband material or a controlled substance, the entity having custody of the material shall have the right to have a representative present during the testing of the material.

603-A:10 Timely Performance of Disclosure.

I. The court shall specify time limits within which discovery is to be performed. The time limits shall be such that discovery is initiated as early as practicable in the process. The time limit for completion of discovery shall be sufficiently early in the process that each party has sufficient time to use the disclosed information adequately to prepare for trial.

II. The time limits adopted by the court shall provide that, in the general discovery sequence, disclosure is first made by the prosecution to the defense. The defense shall then be required to make its correlative disclosure within a specified time after prosecution disclosure has been made.

III. Each party shall be under a continuing obligation to produce discoverable material to the other side. If, subsequent to compliance with this chapter or orders pursuant thereto, a party discovers additional material or information which is subject to disclosure, the other party shall promptly be notified of the existence of such additional material. If the additional material or information is discovered during or after trial, the court shall also be notified.

603-A:11 Manner of Performing Disclosure. Disclosure may be accomplished in any manner mutually agreeable to the parties. Absent agreement, the party having the burden of production shall:

I. Notify opposing counsel that material and information, described in general terms, may be inspected, obtained, tested, copied, or photographed during specified reasonable times; and

II. Make available to opposing counsel at the time specified such material and information and suitable facilities or other arrangements for inspection, testing, copying, and photographing of such material and information.

603-A:12 Obligation to Obtain Discoverable Material.

I. The obligations of the prosecuting attorney and of the defense attorney under this chapter extend to material and information in the possession or control of members of the attorney's staff and of any others who either regularly report to or, with reference to the particular case, have reported to the attorney's office.

II. The prosecutor shall make reasonable efforts to ensure that material and information relevant to the defendant and the offense charged is provided by investigative personnel to the prosecutor's office.

III. If the prosecution is aware that information which would be discoverable if in the possession of the prosecution is in the possession or control of a government agency not reporting directly to the prosecution, the prosecution shall disclose the fact of the existence of such information to the defense.

IV. Upon a party's request for, and designation of, material or information which would be discoverable if in the possession or control of the other party and which is in the possession or control of others, the party from whom the material is requested shall use diligent good faith efforts to cause such material to be made available to the opposing party. If the party's efforts are unsuccessful and such material or others are subject

to the jurisdiction of the court, the court shall issue suitable subpoenas or orders to cause such material to be made available to the party making the request.

V. Upon a showing that items not covered in this chapter are material to the preparation of the case, the court may order disclosure of the specified material or information.

603-A:13 Depositions to Perpetuate Testimony.

I. After an indictment or information upon which a defendant is to be tried is filed, upon motion of the defense or the prosecution, the court may order a deposition taken to perpetuate the testimony of a prospective material witness if the court finds that there is reason to believe that the witness will be unable to be present and to testify at trial because of serious illness or other comparably serious reason, and that it is necessary to take the witness' deposition to ensure a fair trial. The motion should be verified or the grounds for the motion supported by affidavit.

II. In the order for the deposition, the court may also require that any designated books, papers, documents or tangible objects, not privileged, be produced at the time and place of the deposition.

III. The court shall make provision for the defendant to be present at the taking of the deposition and shall make such other provisions as are necessary to preserve the defendant's right to confrontation of witnesses.

IV. A deposition so taken and any evidentiary material produced at such deposition may be introduced in evidence at trial, subject to applicable rules of evidence. However, no deposition taken under this section shall be used or read in evidence when the deposed witness is available and the opposing party objects, except for the purpose of contradicting or impeaching the testimony of the deponent.

603-A:14 Discovery Depositions.

I. On motion of either the prosecution or the defense, the court may order the taking of a deposition upon oral examination of any person other than the defendant, concerning information relevant to the offense charged, but only upon a showing that:

(a) The name of the person sought to be deposed has been disclosed to the movant by the opposing party through the exchange of names and addresses of witnesses or has been discovered during the movant's investigation of the case;

(b) No writing, summarizing the relevant knowledge of the person sought to be deposed, adequate to prevent surprise at trial, has been furnished to the movant;

(c) The movant has taken reasonable steps to obtain a voluntary oral or written statement from the witness, but the witness has refused to cooperate in giving a voluntary statement; and

(d) The taking of a deposition is necessary in the interests of justice.

II. The defendant may not be present at the deposition unless the court orders otherwise for good cause shown.

III. A person whose deposition is sought may move to quash on the ground that compliance would subject the person to an undue burden, or would require the disclosure of material that is privileged or otherwise protected from disclosure, or would otherwise be unreasonable.

IV. In any felony case either party may take a discovery deposition of any expert witness who may be called by the other party to testify at trial.

V. Nothing in this section shall be construed as limiting discovery depositions by agreement between the parties.

VI. Notwithstanding this section, no party in a criminal case shall take the discovery deposition of a victim who was 16 years of age or under at the time of the alleged offense or of any witness who was 16 years of age or under at the time of the alleged offense.

603-A:15 Restrictions on Disclosure.

I. Disclosure shall not be required of legal research or of records, correspondence, reports, notes, or memoranda to the extent that they contain the opinions, theories, or conclusions of the prosecuting attorney or the defense attorney, or members of the attorney's legal staff.

II. Disclosure of an informant's identity shall not be required where such identity is a prosecution secret and where a failure to disclose will not infringe the constitutional rights of the defendant. Disclosure shall not be denied of the identity of witnesses to be produced at a hearing or trial.

III. Disclosure shall not be required where it involves a substantial risk of grave prejudice to national security and where a failure to disclose will not infringe the constitutional rights of the defendant. Disclosure shall not be denied regarding witnesses or material to be produced at a hearing or trial.

IV. Disclosure shall not be required from the defense of any communications of the defendant, or of any other materials which are protected from disclosure by the state or federal constitutions, statutes, or other law.

V. Disclosure of information pertaining to grand jury proceedings is not governed by this chapter.

VI. The court shall have the authority to deny, delay, or otherwise condition disclosure authorized by this chapter if it finds that there is substantial risk to any person of physical harm, intimidation, or bribery resulting from such disclosure which outweighs any usefulness of the disclosure.

603-A:16 Failure of a Party to Use Disclosed Material at Trial. The fact that a party has indicated during the discovery process an intention to offer specified evidence or to call a specified witness is not admissible in evidence at a hearing or trial.

603-A:17 Investigations not to Be Impeded. Neither the counsel for the parties nor other prosecution or defense personnel shall advise persons, other than the defendant, who have relevant material or information to refrain from discussing the case with opposing counsel or showing opposing counsel any relevant material, nor shall they otherwise impede opposing counsel's investigation of the case.

603-A:18 Custody of Materials. Any materials furnished to an attorney pursuant to this chapter shall be used only for the purposes of preparation and trial of the case, unless otherwise authorized by court order.

603-A:19 Protective Orders. Upon a showing of cause, the court may at any time order that specified disclosures be restricted, conditioned upon compliance with protective measures, or deferred, or make such other order as is appropriate, provided that all material and information to which a party is entitled is disclosed in sufficient time to permit counsel to make beneficial use of the disclosure.

603-A:20 Excision. When some parts of material or information are discoverable under this chapter and other parts are not discoverable, the discoverable parts shall be disclosed. The disclosing party shall give notice that nondiscoverable parts have been withheld and the nondiscoverable parts shall be sealed, preserved in the records of the court, and made available to the appellate court in the event of an appeal.

603-A:21 In Camera Proceedings. Upon request of any person, the court may permit any showing of cause for denial or regulation of disclosures, or any portion of such showing, to be made in camera. Upon the entry of an order granting relief following a showing in camera, all confidential portions of the in camera portion of the showing shall be sealed, preserved in the records of the court, and made available to the appellate court in the event of an appeal.

603-A:22 Sanctions.

I. If an applicable discovery rule or an order issued pursuant thereto is not promptly implemented, the court may do one or more of the following:

(a) Order the noncomplying party to permit the discovery of the material and information not previously disclosed;

(b) Grant a continuance;

(c) Prohibit the non-complying party from calling a witness or introducing into evidence the material not disclosed, subject to the defendant's right to present a defense and provided that the exclusion does not work an injustice either to the prosecution or the defense; or

(d) Enter such other order as it deems just under the circumstances.

II. The court may subject counsel to appropriate sanctions, including a finding of contempt, upon a finding that counsel willfully violated a discovery rule or order.

2 Repeal. RSA 517:13, relative to discovery dispositions in criminal cases, is repealed.

3 Effective Date. This act shall take effect January 1, 1998.

*Conferees on the
Part of the Senate*

Sen. Podles, Dist. 16
Sen. Gordon, Dist. 2
Sen. Cohen, Dist. 24

*Conferees on the
Part of the House*

Rep. Lozeau, Hills. 30
Rep. Knowles, Straf. 11
Rep. Lyman, Carr. 5
Rep. MacIntyre, Hills. 18

Senator Podles moved to refuse to adopt the Committee of Conference Report.

SENATOR COLANTUONO: HB 1547 is a bill which sets out, for the first time, statutory rules on discovery in criminal cases and it puts a lot of requirements on the prosecution, namely the attorney general's office and the county attorneys. The attorney general is strongly opposed to this version of this bill. We have heard from the governor's legal counsel also, who is opposed to this bill. They consider this version of the bill to be a very much anti-victim bill. The public is demanding that we start paying more respect to victims' rights rather than criminal's rights, and when you read it, the very first part of this bill talks about protecting the rights of the defendants, but they already have plenty of constitutional rights and they already are protected. The Superior Court, just about six months ago, set out some rules and regulations on discovery process in the Superior Courts which the attorney general's office tells me are working very well. There are also about five cases that have been relied upon by the courts in this state for many years to outline the rules of discovery in criminal cases. There are several portions of this bill, that I believe, go way too far in tipping the scales towards the defendant against the state. Specifically on page three, it talks about the state has to disclose the relationship, whatever that means, between the prosecution and any witness that it intends to call. That is a very broad statement that is going to be very difficult for the prosecution to comply with. It also

requires for the first time, for the prosecution to turn over police officers' notes which have always been considered to be work protected and never have been discoverable in the past. That is a very pro defense stance. It also requires the prosecution to turn over any evidence that it might have, that might be used for impeachment purposes for any witness that it has. It is very difficult for a prosecutor to know what that might be. Also, at the bottom of the page in section (h) "Any material or information within the prosecutor's possession or control which tends to negate the guilt of the defendant." That is a rewrite of what they call the "Brady Rule" which requires exculpatory information to be given to any criminal defense team, because it changes the wording of constitutional law which has been around for years, it is going to produce a lot of litigation and it could bog down the courts in these criminal trials. On the next page, on page four, the defense disclosure, it is not as balanced. They don't have to give as much as the state is required. Page eight, under "obligation to obtain discoverable materials" it puts a strong burden, a hard burden, to me, on the prosecutor and it is going to in effect, turn the police officers into defense investigators, and is totally contrary to current law. So we don't believe that there is any need for this bill. We think the current rules and regulations are sufficient to protect the constitutional rights of the defendants. I don't see why we are bending over backwards to give more rights to the defendants when we should be giving more rights to the victims of the crimes. I would request that the Senate, as a body, turn this down and vote no. Thank you.

SENATOR GORDON: I just want to speak very briefly. I appreciate the very articulate statement of Senator Colantuono, and I appreciate the concerns that he has raised, but I did want to speak on behalf of the conferees so that the body didn't think that their conferees were out of line in agreeing to the Committee of Conference report. There is no question as to what Senator Colantuono, for the most part, has said. It is true. This is going to change the current status of the discovery procedures in criminal cases. In some cases, it is going to make it more difficult for the attorney general's office to prosecute crimes. This bill, as it was originally created, came out of a study committee which met last summer. It was a call particularly among some county attorneys that procedures for discovery be uniformed and that they not be different from county to county. As a result, this bill was developed, and it was negotiated over some period of time. The bottom line is, that there was never a consensus reached. The attorney general's office and those people who were negotiating this, never came to a final agreement, and perhaps it would be better to wait another year to see, if in fact, they could come to an agreement and to have another bill. In terms of what we could produce this year, this was the best to what we thought could be done. I just wanted to explain the Committee of Conference position. Thank you very much, Mr. President.

Motion to adopt the Committee of Conference Report fails.

6017L

COMMITTEE OF CONFERENCE REPORT ON HB 1597

The committee of conference to which was referred House Bill 1597, An Act changing the wetlands board to the wetlands council having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 21-O:5-a, I(g) as inserted by section 6 of the bill by replacing it with the following:

(g) Six members of the public appointed by the governor and council for a term of 3 years or until a successor is chosen. One of these shall be a member of a municipal conservation commission at the time of appointment, and be one of 3 nominees submitted by the New Hampshire Association of Conservation Commissions; one shall be a supervisor, associate supervisor, former associate supervisor or former supervisor, of a conservation district at the time of appointment, and be one of 3 nominees submitted by the New Hampshire Association of Conservation Districts; one shall be an elected municipal official at the time of appointment, and be one of 3 nominees submitted by the New Hampshire Municipal Association; one shall be a member of the non-marine construction industry at the time of appointment, and be nominated by the governor; one shall be a member of the marine construction industry at the time of appointment and be nominated by the governor; and one shall have experience in environmental protection and resource management at the time of appointment and be one of 4 nominees submitted 2 each, by the New Hampshire Audobon Society and the Society for the Protection of New Hampshire Forests. One member of the council shall be elected annually as chairperson by the members of the council.

Amend the bill by replacing section 30 with the following:

30 Wetlands Board Rules. Existing rules adopted by the wetlands board shall continue in full force and effect until such rules expire or are amended or repealed by the commissioner of environmental services. Rulemaking proceedings of the wetlands board in progress on the effective date of this section shall be taken over by the commissioner of environmental services. The commissioner may continue the proceedings or may begin a new rulemaking proceeding.

Conferees on the

Part of the Senate

Sen. Russman, Dist. 19

Sen. F. King, Dist. 1

Sen. Pignatelli, Dist. 13

Conferees on the

Part of the House

Rep. Dickinson, Carr. 2

Rep. W. Williams, Graf. 3

Rep. Adler, Sull. 5

Rep. Lovett, Graf. 6

Senator Russman moved concurrence.

Adopted.

6089L

COMMITTEE OF CONFERENCE REPORT ON HB 1610-FN-LOCAL

The committee of conference to which was referred House Bill 1610-FN-LOCAL, An Act relative to school administrative units having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose. The purpose of this act is to provide for orderly organization or reorganization of, or withdrawal from, membership in school administrative units.

2 New Section; Single District School Administrative Units. Amend RSA 194 by inserting after section 1 the following new section:

194:1-a Single District School Administrative Units. As provided in RSA 194-C:10, single district school administrative units shall be considered the same as a single school district.

3 New Chapter; School Administrative Units. Amend RSA by inserting after chapter 194-B the following new chapter:

CHAPTER 194-C

SCHOOL ADMINISTRATIVE UNITS

194-C:1 Status.

I. All school administrative units existing on the effective date of this chapter shall continue in their present form unless modified in accordance with the provisions of this chapter.

II. School administrative units legally organized shall be corporations, with power to sue and be sued, to hold and dispose of real and personal property for the establishment of facilities for administration and any instructional purposes, and to make necessary contracts in relation to any function of the corporation; provided, however, that such school administrative units shall not have the power to procure land, to construct or purchase buildings, to borrow money in order to purchase real estate, or to mortgage said real estate.

194-C:2 Procedure; Plans for Organization or Withdrawal.

I. Any school district pursuant to an article in the warrant for any annual or special meeting may vote to create a planning committee in the following manner:

(a) The question shall be placed on the warrant of a special or annual school district meeting which body shall have final authority to adopt the provision to create a planning committee; provided, however, that any school district, which at an annual meeting within one year prior to the effective date of this act has voted affirmatively on a warrant article to consider withdrawal from or a reorganization of its school administrative unit, shall be deemed to have complied with this subsection.

(b)(1) In districts without annual meetings, the legislative body of the school district shall consider and act upon the question in accordance with their current procedures. To the extent and if permitted by local ordinance, upon submission to the legislative body within 60 days of the legislative body's vote of a petition signed by 100 or by 2 percent, whichever is less, of the registered voters, the legislative body shall place the question on the official ballot for any regular election otherwise in accordance with their current procedures for passage of referenda.

(2) The school district legislative body shall hold a public hearing on the question at least 15 days but not more than 30 days before the question is to be voted on. Notice of the hearing shall be posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.

(3) In the event that the referendum is nonbinding, the question shall be returned for reconsideration to the legislative body which shall have final authority to adopt the provision to create a planning committee.

(4) In the event that the referendum is binding, the public vote shall be the final and binding authority to adopt the provision to create a planning committee.

II.(a) The planning committee shall consist of the following members:

(1) Two local school board members, appointed by the local school board.

(2) One member of the financial committee having the statutory authority to make recommendations concerning school budgets, appointed by the financial committee. In communities with no such financial committee, the number of public members under subparagraph (a)(3) shall be increased to 5.

(3) Four public members representing the community at large, appointed by the school district moderator or, for districts without an annual meeting, the legislative body of the school district.

(4) The superintendent, who shall be a nonvoting member of the committee.

(b) The members of the committee shall serve without pay for a term ending:

(1) At the annual meeting of the district next following the creation of the committee, if the committee is created at an annual meeting; or

(2) At the first annual meeting of the district next following the special meeting, if the committee is created at a special meeting.

(3) One year from the date of appointment, if appointed in districts without annual meetings.

(c) Vacancies on the committee shall be filled by the appropriate appointing authority for the balance of the unexpired term.

(d) The district may appropriate money to meet the expenses of the committee at the meeting at which it is created or at any subsequent district meeting notwithstanding the provisions of RSA 32 or RSA 197:3, and such expenses may include the cost of publication and distribution of reports.

(e) A planning committee shall act by a majority vote of its total membership.

III. The planning committee shall:

(a) Study the advisability of establishing a school administrative unit in accordance with this chapter, its organization, operation and control, and the advisability of constructing, maintaining and operating a school or schools to serve the needs of such school administrative unit.

(b) Estimate the construction and operating costs of operating such school or schools.

(c) Investigate the methods of financing such school or schools, and any other matters pertaining to the organization and operation of a school administrative unit.

(d) Prepare an educational and fiscal analysis of the impact on all remaining districts and the disposition of school administrative assets.

(e) Submit a report or reports of its findings and recommendations to the several school districts within the existing school administrative unit.

IV. The planning committee shall prepare a plan for providing superintendent services for the proposed school administrative unit signed by at least a majority of the membership of the planning committee, which meets the requirements set forth in RSA 194-C:4:

V.(a) The planning committee may submit a plan for joining an existing school administrative unit to the school administrative unit board for approval. If approved, the plan shall be submitted to the state board and the school district voters in accordance with RSA 194-C:2, V and VI.

(b) Before final approval of a plan by the planning committee, it shall hold at least one public forum on the plan within the proposed school administrative unit and shall give such public notice of the forum as it determines to be reasonable.

VI. The planning committee shall submit an executed copy of the proposed plan to the school administrative unit board and all affected school boards at least 60 days prior to submission to the state board. Within 60 days, the state board of education shall review the proposed plan for administrative structure to determine whether or not the proposed plan contains the services described in RSA 194-C:4. Each plan shall also include an educational and fiscal analysis of the impact on all remaining districts and the disposition of school administrative unit assets. If, in the opinion of the state board, all services have not been properly addressed, the deficiencies shall be noted and the plan shall be promptly returned for revision. When the plan is resubmitted, the state board of education shall promptly return the plan and make a recommendation for or against its adoption. This recommendation shall be reported to the legislative body of the district. The state board shall not have veto power over any plan once it is resubmitted to the state board by the planning committee.

VII.(a) The state board shall submit the organization or reorganization plan to the school boards of the districts for acceptance by the districts as provided in subparagraph (b). Upon such submission, the state board shall cause the approved plan to be published once at the expense of the state in some newspaper generally circulated within the proposed school administrative unit.

(b) Upon the receipt of written notice of the state board's approval of the plan, the plan shall be submitted for approval by the school districts under the procedures outlined in paragraph I of this section. The question shall be in substantially the following form:

"Shall the school district accept the provisions of RSA 194-C providing for the (organization of) a school administrative unit involving school districts of _____ and _____ etc., in accordance with the provisions of the proposed plan?"

Yes _____ No _____

If a 3/5 majority of the voters present and voting in each district shall vote in the affirmative, the clerk of each district shall forthwith send to the state board a certified copy of the warrant, certificate of posting, evidence of publication, if required, and minutes of the meeting in the district. If the state board finds that a 3/5 majority of the voters present and voting in each district meeting have voted in favor of the establishment of the school administrative unit, it shall issue its certificate to that effect; and such certificate shall be conclusive evidence of the lawful organization and formation of the school administrative unit as of the date of its issuance.

VIII.(a) The state board shall submit the plan for district withdrawal from a school administrative unit to the school board of the withdrawing district for acceptance by the district as provided in paragraph VI. Upon such submission, the state board shall cause the approved plan to be published once at the expense of the state in some newspaper generally circulated within the district which proposes to withdraw from a school administrative unit.

(b) Upon the receipt of written notice of the state board's approval of the plan, the plan shall be submitted for approval by the school districts under the procedures outlined in paragraph I of this section. The question shall be in substantially the following form:

"Shall the school district accept the provisions of RSA 194-C providing for the withdrawal from a school administrative unit involving school districts of _____ and _____ etc., in accordance with the provisions of the proposed plan?"

Yes _____ No _____

If a 3/5 majority of the voters present and voting in the withdrawing district shall vote in the affirmative, the clerk of that district shall forthwith send to the state board a certified copy of the warrant, certificate of posting, evidence of publication, if required, and minutes of the meeting in the district. If the state board finds that a 3/5 majority of the voters present and voting in that district meeting have voted in favor of the establishment of the school administrative unit, it shall issue its certificate to that effect; and such certificate shall be conclusive evidence of the lawful organization and formation of the school administrative unit as of the date of its issuance.

194-C:3 Single District School Administrative Units; Exemption. Single district school administrative units shall be considered the same as a single school district and shall be exempt from meeting the requirements of this chapter, except that they shall provide superintendent services pursuant to RSA 194-C:4.

194-C:4 Superintendent Services. Each school administrative unit or single school district shall provide the following superintendent services:

I. An educational mission which indicates how the interests of pupils will be served under the administrative structure.

II. Governance and organizational structure and delivery of administrative services including, but not limited to:

(a) Payroll, cash flow, bills, records and files, accounts, reporting requirements, funds management, audits, and coordination with the treasurer, and advisory boards on policies necessary for compliance with all state and federal laws regarding purchasing.

(b) Recruitment, supervision and evaluation of staff; labor contract negotiation support and the processing of grievances; arrangement for mediation, fact finding or arbitration; and management of all employee benefits and procedural requirements.

(c) Development, review and evaluation of curriculum, coordination of the implementation of various curricula, provisions of staff training and staff development, and development and recommendation of policies necessary for compliance relating to curriculum and instruction.

(d) Compliance with laws, regulations, and rules regarding special education, Title IX, the Americans with Disabilities Act, home education, minimum standards, student records, sexual harassment, and other matters as may from time to time occur.

(e) Pupil achievement assessment through grading and state and national assessment procedures and the methods of assessment to be used.

(f) The on-going assessment of district needs relating to student population, program facilities and regulations.

(g) Writing, receiving, disbursement, and the meeting of compliance requirements.

(h) Insurance, hearings, litigation, and court issues.

(i) School board operations and the relationship between the board and the district administration.

(j) The daily administration and provision of educational services to students at the school facility including, but not limited to, fiscal affairs; staff, student, parent, safety and building issues; and for dealing with citizens at large.

(k) Assignment, usage, and maintenance of administrative and school facilities.

(l) Designation of number, grade or age levels and, as applicable, other information about students to be served.

(m) Pupil governance and discipline, including age-appropriate due process procedures.

(n) Administrative staffing.

(o) Pupil transportation.

(p) Annual budget, inclusive of all sources of funding.

(q) School calendar arrangements and the number and duration of days pupils are to be served pursuant to RSA 189:1.

(r) Identification of consultants to be used for various services.

194-C:5 Organization and Duties.

I. The school board of each school administrative unit shall meet between April 1 and June 1 in each year, at a time and place fixed by the chairpersons of the several boards, and shall organize by choosing a chairperson, a secretary, and a treasurer.

II.(a) Each school administrative unit shall provide superintendent services to be performed as required by RSA 194-C:4. School districts shall not be required to have a superintendent and may assign these services to one or more administrative personnel working full or part-time; or such services may be independently contracted.

(b) The state board may establish certification requirements for superintendents in smaller and larger districts, and may designate services in addition to those established in RSA 194-C:4.

(c) Other administrative positions may be established, but only after 50 percent or more of the school districts in the school administrative unit representing 60 percent of the total pupils in the school administrative unit has voted favorably upon the establishment of the position.

III. The school board of each school administrative unit shall fix the salaries of all school administrative unit personnel, shall apportion the expense of the salaries and benefits among the several districts, and shall certify the apportionment to their respective treasurers and to the state board of education. The school administrative unit board shall have the authority to remove superintendents and other administrators.

194-C:6 Federal Assistance. School administrative unit boards are hereby authorized to cooperate with the federal government or any agency thereof to request, receive and expend federal funds for educational purposes. The receipt and expenditure of federal funds by a school administrative unit shall be accounted for in the same manner as established for federal funds processed through local school districts. Each school administrative unit is hereby directed to establish separate from its operating budget a federal grant account.

194-C:7 Representation. Every school district maintaining one or more public schools shall be entitled to 3 votes on the joint board of school administrative units, plus additional votes as provided in RSA 189:46. Districts not maintaining schools shall have one representative on the joint board, who shall be entitled to one vote. Each school district board member present shall be entitled to have a proportionate share of the

school district's votes provided that the total votes per district shall be equally divided among the district's board members present and cast as each member present decides on any issue.

194-C:8 Weighted Voting. In all votes regarding school administrative unit affairs, including the organization of such unit's school board and selection of officers, each district shall be entitled to one vote for each 16 pupils residing in that district and enrolled in schools under the administrative unit. A balance of 8 or more students shall entitle that district to an additional vote. A balance of fewer than 8 students shall have no net effect on a district's vote. Enrollments shall be based on the average daily membership in residence of each district for the school year which ended in the preceding June. Weighted votes shall only be used upon the demand of a majority of the members of any board present and voting in the school administrative unit. The school board members present at a school administrative unit school board meeting shall be entitled to cast the entire number of votes assigned to their school districts, provided that each representative present shall be entitled to a proportionate share of the total to be cast as provided in RSA 194-C:7.

194-C:9 Budget.

I. At a meeting held before January 1, the school administrative unit board shall adopt a budget required for the expenses of the school administrative unit for the next fiscal year, which budget may include the salary and expenses of supervisors of health, physical education, music, art, and guidance, and any other employees, and shall include the expenses necessary for the operation of the school administrative unit. Superintendents, assistant superintendents, business administrators, teacher consultants, and the regularly employed office personnel of the school administrative unit office shall be deemed employees of the school administrative unit for the purposes of payment of salaries and contributions to the employee's retirement system of the state of New Hampshire and workers' compensation. The school administrative unit board shall apportion the total amount of the budget among the constituent school districts in the following manner: the apportionment shall be based 1/2 on the average membership in attendance for the previous school year and 1/2 on the most recently available equalized valuation of each district as of June 30 of the preceding school year. Prior to January 15 in each year, the board shall certify to the chairperson of the school board of each constituent school district the amount so apportioned. Each district within a school administrative unit shall raise at the next annual district meeting the sum of money apportioned to it by the school administrative unit board for the expenses of services which each district received in connection with the school administrative unit office. The school administrative unit board in adopting the budget shall not add any new service to the school administrative unit budget unless a majority of the school districts in the school administrative unit representing not less than 60 percent of the total pupils in the school administrative unit have voted favorably upon the establishment of the service. A vote to accept a new service shall not be construed as a vote to raise and appropriate money within the meaning of RSA 197:3.

II. The provisions of paragraph I shall not apply to school administrative units comprising only one district. The budget for these units shall be a part of the school district budget and subject to the vote of the annual school district meeting or, for those districts without an annual meeting, by the legislative body.

194-C:10 Public Hearing. Before final adoption of the school administrative unit budget as provided in RSA 194-C:9, at least one public hear-

ing shall be held within the school administrative unit, at a time and place specified by the school administrative unit board chairperson, upon a preliminary budget prepared by the school administrative unit board. Notice of such public hearing and a summary of the preliminary budget shall be submitted by the secretary of the board for publication in a newspaper of general circulation in the school administrative unit at least 7 days prior to the date of the hearing. The budget, subsequent to its final approval by the school administrative unit board, shall be posted in a public place in each constituent school district and given such other publication as the school administrative unit board may determine.

4 Department Register; Report Required. The department of education shall maintain a register of firms which have notified the department of their intent to offer administrative services to school districts and shall have on file recommendations made by the districts using such services. The department of education shall monitor the provisions of this act and make a report annually to the legislature with recommendations for modification for a period of 4 years after the effective date of this section.

5 Repeal. The following are repealed:

I. RSA 186:11, I, relative to the duties of the state board regarding school administrative units.

II. RSA 189:43 - 47-a, relative to school administrative units.

6 Effective Date. This act shall take effect 60 days after its passage.

*Conferees on the
Part of the Senate*

Sen. Gordon, Dist. 2
Sen. Rubens, Dist. 5
Sen. Larsen, Dist. 15

*Conferees on the
Part of the House*

Rep. Larson, Graf. 8
Rep. Belvin, Hills. 14
Rep. Thulander, Hills. 6
Rep. R. Champagne, Ches. 19

AMENDED ANALYSIS

This bill establishes procedures for the organization or reorganization of, or withdrawal from, membership in school administrative units. Single district school administrative units are exempt from these provisions.

Senator Gordon moved concurrence.

Adopted.

Senators Colantuono and Wheeler in opposition to HB 1610-FN-L.

6035L

COMMITTEE OF CONFERENCE REPORT ON HB 1619-A

The committee of conference to which was referred House Bill 1619-A, An Act authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 11 with the following:

11 New Paragraph; "Surplus Property Act" Defined. Amend RSA 12-G:2 by inserting after paragraph XVII the following new paragraph:

XVIII. "Surplus Property Act" and all references to section 13(g) of the Surplus Property Act of 1944, as amended, mean any provision of federal law authorizing transfer of federal surplus property for airport

purposes, including 49 U.S.C. section 47151(a); 50 U.S.C. App. section 1622(g), as amended, to the extent applicable prior to the enactment of 49 U.S.C. section 47151(a); and any other provision of federal law that may be subsequently enacted that authorizes the transfer of federal surplus property for airport purposes.

Amend the introductory paragraph of RSA 12-G:11, II(b) as inserted by section 12 of the bill by replacing it with the following:

(b) In the case of such property leased from the authority, the lessee of such property shall pay all taxes duly assessed against such property no later than the due date. If the lessee fails to pay such duly assessed taxes by the due date:

Amend the bill by replacing all after section 14 with the following:

15 Contingent Nullification. If SB 561-A of the 1996 regular session becomes law, sections 8-10 of SB 561-A shall not take effect.

16 Effective Date.

I. Sections 1-9 and 13-15 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 1996.

*Conferees on the
Part of the Senate*

Sen. Russman, Dist. 19

Sen. Cohen, Dist. 24

Sen. F. King, Dist. 1

*Conferees on the
Part of the House*

Rep. F. Torr, Straf. 12

Rep. C. Brown, Graf. 14

Rep. Kurk, Hills. 5

Rep. Vaughn, Rock. 35

Senator Russman moved concurrence.

Adopted.

6082L

COMMITTEE OF CONFERENCE REPORT ON HB 1620

The committee of conference to which was referred House Bill 1620, An Act relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the
Part of the Senate*

Sen. Rodeschin, Dist. 8

Sen. F. King, Dist. 1

Sen. Pignatelli, Dist. 13

*Conferees on the
Part of the House*

Rep. G. Chandler, Carr. 1

Rep. E. Smith, Ches. 6

Rep. Schotanus, Sull. 3

Rep. C. Chandler, Merr. 8

Senator Rodeschin moved concurrence.

Adopted.

6048L

COMMITTEE OF CONFERENCE REPORT ON HB 1621

The committee of conference to which was referred House Bill 1621, An Act authorizing the executive director of the fish and game department to conduct wildlife population reductions having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the
Part of the Senate*

Sen. Roberge, Dist. 9
Sen. Rodeschin, Dist. 8
Sen. Cohen, Dist. 24

*Conferees on the
Part of the House*

Rep. Felch, Rock. 21
Rep. Crossman, Rock. 32
Rep. H. Coulombe, Coos 7
Rep. MacNeil, Graf. 7

Senator Roberge moved concurrence.

Adopted.

6024L

COMMITTEE OF CONFERENCE REPORT ON HB 1631

The committee of conference to which was referred House Bill 1631, An Act relative to felonious use of body armor having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the
Part of the Senate*

Sen. Podles, Dist. 16
Sen. Wheeler, Dist. 11
Sen. Pignatelli, Dist. 13

*Conferees on the
Part of the House*

Rep. Knowles, Straf. 11
Rep. Dolan, Rock. 12
Rep. Hurst, Rock. 22
Rep. E. Scanlon, Rock. 19

Senator Podles moved concurrence.

Adopted.

6003L

**COMMITTEE OF CONFERENCE REPORT ON
HB 1633-FN-LOCAL**

The committee of conference to which was referred House Bill 1633-FN-LOCAL, An Act relative to solid waste management having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by inserting after the enacting clause the following new sections and renumbering the original sections 1-8 to read as 3-10, respectively:

1 Waste Reduction Goal; Disposal or Recycleable Materials. Amend RSA 149-M:1-a, III to read as follows:

III. The general court further declares that the goal of the state, for the period 1990-2000, is to achieve a 40 percent minimum weight reduction in the solid waste stream on a per capita basis. Weight reduction shall be measured with respect to changes in the total waste stream generated. The goal of weight reduction [shall] *may* be achieved through source reduction, recycling and reuse, and composting, or any combination of such methods, *and with the goal of not disposing of*

recycleable materials in a lined landfill with a leachate collection system. Ash resulting from waste-to-energy technologies or other incineration shall not be subject to further weight reduction. Recycling, reuse, and composting efforts existing upon the effective date of this paragraph shall be considered as counting towards the 40 percent weight reduction goal.

2 Waste Reduction Goal; Disposal of Recycleable Materials; Recodified Version. Amend RSA 149-M:2, I to read as follows:

I. The general court declares that the goal of the state, for the period 1990-2000, is to achieve a 40 percent minimum weight reduction in the solid waste stream on a per capita basis. Weight reduction shall be measured with respect to changes in the total waste stream generated. The goal of weight reduction [shall] **may** be achieved through source reduction, recycling, reuse, and composting, or any combination of such methods, **and with the goal of not disposing of recycleable materials in a lined landfill with a leachate collection system.** Ash resulting from waste-to-energy technologies or other incineration shall not be subject to further weight reduction. Recycling, reuse, and composting efforts existing as of 1990 shall be considered as counting towards the 40 percent weight reduction goal.

Amend the bill by replacing all after section 8 with the following:

9 Contingency.

I. If HB 1572-LOCAL, of the 1996 legislative session becomes law, sections 2, 4, 6, and 8 of this act shall take effect at 12:01 a.m. on the effective date of HB 1572-LOCAL, and sections 1, 3, 5, and 7 of this act shall not take effect.

II. If HB 1572-LOCAL of the 1996 legislative session does not become law, sections 2, 4, 6, and 8 of this act shall not take effect, and sections 1, 3, 5, and 7 of this act shall take effect upon its passage.

10 Effective Date.

I. Sections 1-8 of this act shall take effect as provided in section 9.

II. The remainder of this act shall take effect upon its passage.

*Conferees on the
Part of the Senate*

Sen. Russman, Dist. 19
Sen. Pignatelli, Dist. 13
Sen. F. King, Dist. 1

*Conferees on the
Part of the House*

Rep. Aranda, Rock. 13
Rep. Melcher, Hills. 11
Rep. Showerman, Hills. 7
Rep. R. Wheeler, Hills. 7

Senator Russman moved concurrence.

Adopted.

SENATOR CURRIER: Mr. President, I can now answer Senator Keough's question in regard to the money in the bill dealing with Cannon Mountain. This bill, the new section nine under debt service, will actually take the debt service from the Cannon Tramway and actually take it from the general fund to the tune of \$330,000 so this is a major hit, in some regard to the general fund in the form of the appropriation will now come from the general fund as opposed to the DRED budget where it currently is.

TAKEN OFF THE TABLE

Senator Currier moved to have **HB 530-FN**, An Act transferring the functions and duties of the director of the state ski operations, taken off the table.

Adopted.

Recess.

Out of recess.

Senator Russman moved to have **HB 530-FN**, An Act transferring the functions and duties of the director of the state ski operations, laid on the table.

Adopted.**LAI D ON THE TABLE**

HB 530-FN, An Act transferring the functions and duties of the director of the state ski operations.

TAKEN OFF THE TABLE

Senator Russman moved to have **HB 530-FN**, An Act transferring the functions and duties of the director of the state ski operations, taken off the table.

Adopted.

HB 530-FN, an act transferring the functions and duties of the director of the state ski operations.

Senator Currier moved to refuse to adopt the Committee of Conference and requests a new Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Currier, F. King, Pignatelli.

SUSPENSION OF THE RULES

Senator Russman moved that the Rules be so far suspended as to allow the extension of a Committee of Conference Report after the deadline and allowing the signing after the deadline.

Adopted by the necessary 2/3 votes.**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1344, providing for an increase in the maximum cost of sweepstakes tickets and relative to the assignment of lottery prizes.

Senator Currier moved adoption.

Adopted.**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 533, relative to retirement benefits for the state treasurer.

HB 1162, relative to making a supplemental appropriation for the veterinary diagnostic laboratory in the agriculture experiment station at the university of New Hampshire.

HB 1253, relative to senior "meals on wheels" and senior transportation and transferring certain funds.

HB 1297, relative to the form of the citizenship affidavit.

HB 1406, authorizing the commissioner of the department of corrections to transfer funds within the department of corrections budget for funding for the pathways program for the fiscal year 1997.

SB 629, relative to testamentary additions to trusts.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

SB 561, making an appropriation for capital improvements for Lamson Library at Plymouth state college and for the purchase of furnishings for the Brown building; extending certain lapse dates; relative to the Pease development authority; relative to the state veterans' oversight committee and a state veterans' cemetery; increasing an appropriation for the Hanover-Lebanon District Court; and decreasing an appropriation for the Coos county superior court.

SB 619, relative to the voluntary administration of estates.

HB 1169, authorizing the department of health and human services to impose administrative fines on certain nursing homes.

HB 1193, relative to department of revenue administration reporting requirements relative to a yield tax on timber, establishing on exception from RSA 541-A for requirements on certain tax filing forms, and removing a budget footnote.

HB 1286, relative to the suspension and expulsion of pupils.

HB 1623, authorizing school districts to establish revolving funds to finance certain programs, and relative to the printed materials revolving fund under the department of education, and increasing the appropriation therefor.

SB 130, relative to allowing trust grantors to determine the disposition of trust assets and establishing a model trust law study committee.

SB 521, establishing a civic center commission to operate a civic and trade center in the city of Concord.

SB 570, relative to the transportation of dogs in motor vehicles.

SB 651, establishing a temporary tax rate in simulcast dog racing, establishing a committee to examine certain aspects of the pari-mutuel industry, and establishing a temporary breakage distribution for certain running horse races.

SB 654, relative to fees for certain hunting and fishing licenses.

HB 175, relative to cooperative school districts.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1508, requiring the department of safety to keep drivers' records confidential except for certain reasons.

SB 4, relative to overnight stays and ambulatory surgical facilities under RSA 151-C.

SB 621, relative to the dam safety program in the department of environmental services and making an appropriation therefor; legalizing the Kingston town meeting; reinstating the corporate charter of Country Squire Realty Associates, Inc.; extending the reporting date of the legislative study committee established to examine the bumping rights of department of health and human services employees; and repealing a general fund appropriation reduction for the department of health and human services for fiscal year 1997.

SB 622, relative to the custody of remains of deceased persons and the profession of embalmers and funeral directors.

Senator Currier moved adoption.

Adopted.

5959L

COMMITTEE OF CONFERENCE REPORT ON SB 11-LOCAL

The committee of conference to which was referred Senate Bill 11-LOCAL, An Act relative to the application of local land use regulations to governmental units having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 674:54, II as inserted by section 1 of the bill by replacing it with the following:

II. The state, university system, county, town, city, school district, or village district shall give written notification to a municipality of any proposed governmental use of property within its jurisdiction, which constitutes a substantial change in use or a substantial new use. Written notification shall contain plans, specifications, and explanations of proposed changes available at the time. A municipality or its designated land use board may conduct a public hearing relative to the proposed governmental use. If the municipality chooses to hold a hearing, the hearing shall be held within 30 days after receipt of notice by the municipality. A representative of the governmental entity which provided notice shall be available to present the plans, specifications, or explanations. The municipality shall provide nonbinding written comments relative to conformity with normally applicable land use regulations to the sponsor of the governmental use within 30 days after the hearing.

*Conferees on the
Part of the Senate*

Sen. Rubens, Dist. 5
Sen. Cohen, Dist. 24
Sen. Stawasz, Dist. 12

*Conferees on the
Part of the House*

Rep. Behrens, Sull. 2
Rep. G. Chandler, Carr. 1
Rep. Schotanus, Sull. 3
Rep. McGuirk, Ches. 1

Senator Rubens moved concurrence.

Adopted.

5993L

COMMITTEE OF CONFERENCE REPORT ON SB 517-LOCAL

The committee of conference to which was referred Senate Bill 517-LOCAL, An Act relative to a property tax exemption for real estate used as rental housing by certain nonprofit charitable organizations and relative to assessments against owners of property in central business districts having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the
Part of the Senate*

Sen. Colantuono, Dist. 14
Sen. Danaï, Dist. 20
Sen. Barnes, Dist. 17

*Conferees on the
Part of the House*

Rep. Patten, Carr. 9
Rep. Mackay, Merr. 17
Rep. Sabella, Rock. 13
Rep. Whipple, Sull. 11

Senator Colantuono moved concurrence.

Adopted.

6072L

COMMITTEE OF CONFERENCE REPORT ON SB 539-FN

The committee of conference to which was referred Senate Bill 539-FN, An Act requiring all drivers to be tested for evidence of blood alcohol and drug content if involved in a motor vehicle accident causing death having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by deleting sections 1 and 2 and renumbering the original sections 3-26 to read as 1-24, respectively.

Amend the bill by replacing section 7 with the following:

7 New Paragraph; Definition; Local Option. Amend RSA 151-B:2 by inserting after paragraph VIII the following new paragraph:

VIII-a. "Local option" means a protocol for which a medical resource hospital and the local medical control physician have complete authority and jurisdiction, including training, implementation, and quality assurance. A local option may be more restrictive but shall not be less restrictive than the minimum state standard protocols approved and issued by the emergency medical services medical control board.

Amend the bill by replacing section 24 with the following:

24 Effective Date. This bill shall take effect 60 days after its passage.

*Conferees on the
Part of the Senate*

Sen. Gordon, Dist. 2
Sen. Barnes, Dist. 17
Sen. Cohen, Dist. 24

*Conferees on the
Part of the House*

Rep. D. Sytek, Rock. 26
Rep. Knowles, Straf. 11
Rep. Weare, Rock. 21
Rep. Dyer, Hills. 8

AMENDED ANALYSIS

This bill requires certain persons involved in a motor vehicle collision resulting in death or personal injury to be tested for evidence of blood alcohol and drug content.

This bill creates an exemption to the law making communications confidential between a physician and a patient. This bill allows such communications to be discovered in official criminal proceedings arising out of acts allegedly committed while the patient was under the influence of intoxicating liquor or controlled drugs.

The bill limits the award to \$20,000 for a claim against the state for time unjustly served in the state prison when a person is found to be innocent of the crime for which such person was convicted.

The bill adds a member from the fire standards and training commission to the emergency medical and trauma services coordinating board.

This bill replaces the medical advisory board created under RSA 151-B with the emergency medical services medical control board. The bill transfers authority and responsibility for specification of prescription drugs that may be used by emergency medical services providers from the board of registration in medicine and the pharmacy board to this medical control board, with the concurrence of the pharmacy board. The bill also grants responsibility to the medical control board for determination of protocols to be used by emergency medical services providers.

Senator Gordon moved concurrence.

Adopted.

6078L

COMMITTEE OF CONFERENCE REPORT ON SB 545

The committee of conference to which was referred Senate Bill 545, An Act relative to the powers of city councils having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and

That the House recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 47:17, XVI as inserted by section 1 of the bill by replacing it with the following:

XVI. WARNINGS AND CITATIONS. To establish a procedure for the issuance of warnings and citations for the violation of health, fire, planning board, building, **licensing**, zoning, and housing codes **and ordinances**.

*Conferees on the
Part of the Senate*

Sen. Podles, Dist. 16
Sen. Pignatelli, Dist. 13
Sen. Lovejoy, Dist. 6

*Conferees on the
Part of the House*

Rep. Behrens, Sull. 2
Rep. Metzger, Ches. 13
Rep. Brundige, Hills. 18
Rep. L. Foster, Hills. 10

Senator Podles moved concurrence.

Adopted.

Senator Wheeler in opposition to SB 545.

6043L

COMMITTEE OF CONFERENCE REPORT ON SB 547-FN-A

The committee of conference to which was referred Senate Bill 547-FN-A, An Act requiring the department of safety services, division of safety services, to publish the New Hampshire boaters guide and making an appropriation therefor having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

Conferees on the

Part of the Senate

Sen. Fraser, Dist. 4

Sen. Barnes, Dist. 17

Sen. Cohen, Dist. 24

Conferees on the

Part of the House

Rep. Whalley, Merr. 5

Rep. Royce, Ches. 9

Rep. Lovett, Graf. 6

Rep. Klemm, Rock. 28

Senator Fraser moved concurrence.

Adopted.

6042L

**COMMITTEE OF CONFERENCE REPORT ON
SB 559-FN-LOCAL**

The committee of conference to which was referred Senate Bill 559-FN-LOCAL, An Act declaring proposed public collective bargaining agreements to be public records subject to inspection having considered the same, report the same with the following recommendations:

having considered the same, report the committee is unable to reach agreement.

Conferees on the

Part of the Senate

Sen. Barnes, Dist. 17

Sen. Rubens, Dist. 5

Sen. Blaisdell, Dist. 10

Conferees on the

Part of the House

Rep. Hawkins, Rock. 20

Rep. McNamara, Ches. 3

Rep. Gibson, Hills. 18

Rep. Baroody, Hills. 42

Senator Barnes moved to adopt the Committee of Conference report.

Adopted.

5992L

COMMITTEE OF CONFERENCE REPORT ON SB 560

The committee of conference to which was referred Senate Bill 560, An Act relative to utilization review programs having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

Conferees on the

Part of the Senate

Sen. Blaisdell, Dist. 10

Sen. Russman, Dist. 19

Sen. Fraser, Dist. 4

Conferees on the

Part of the House

Rep. Gage, Rock. 26

Rep. Dowd, Rock. 13

Rep. Hill, Graf. 1

Rep. Crosby, Merr. 20

Senator Blaisdell moved concurrence.

Adopted.

6071L

COMMITTEE OF CONFERENCE REPORT ON SB 573

The committee of conference to which was referred Senate Bill 573, An Act relative to the issuance by courts of telephonic emergency temporary orders having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the
Part of the Senate*

Sen. Podles, Dist. 16
Sen. Gordon, Dist. 2
Sen. Pignatelli, Dist. 13

*Conferees on the
Part of the House*

Rep. D. Sytek, Rock. 26
Rep. Lyman, Carr. 5
Rep. Knowles, Straf. 11
Rep. Morrill, Merr. 13

Senator Podles moved concurrence.

Recess.

Senator Barnes in the Chair.

SENATOR WHEELER: I rise in strong opposition to the Committee of Conference Report on SB 573. SB 573 expands the times or the opportunities where the courts can use telephonic or in other words, verbal court orders. I had a constituent that called this summer, that this bill would apply to, where the police knocked on his door and told him that they needed to come in and see your children and we need to come in and see your animals. The constituent said to him, "well you have to have a warrant." So the policeman went back out to his car and sat in the driveway, apparently called the court, came back in about half an hour later and said that he needed to see the children and the animals. The constituent said, "let me see your warrant." He said, "well, I have a warrant and it is on my desk, let me in or I am going to arrest you right now." This bill is a disaster, the court was open. The bill allows for court orders without a paper trail. This bill is very bad. It sets a very bad precedent. It goes against the bill that we just passed that eliminated telephone orders and banned telephonic orders for search warrants. This bill should not pass, and I urge the defeat of this bill and respectfully call for a roll call.

Recess.**Out of recess.**

SENATOR GORDON: I stand as a Conferee on the Committee of Conference on this particular matter and perhaps explain the rationale for the Committee members in agreeing to the committee report. The fact is, right now we are in the twentieth century and technology is changing. There was a time when the only way that a person could appropriately apply for a warrant was to appear in person in front of a magistrate, and have that magistrate approve the paper work. Times have changed. The fact is that we do have alternative means of doing that today and that is the way that the world works. It works with facsimile machines. The fact is, that a police officer or a police agency can supply the same information to a magistrate by a fax machine as they might have had to have appeared in front of that magistrate and appear in person to do before. The agency or the police officer is still required to

supply the application for a search warrant or an arrest warrant, the agency or the police officer is still required to provide the supporting documentation, which generally is an affidavit explaining why there is probable cause to believe that the arrest warrant or the search warrant should be issued. We all know that times have changed, as a result of that, we have higher expectations for our judges, that they are not just going to be available during the day when the court is open, but they are going to be available for other reasons when the courts aren't open. As a result of that, it makes it easier for us, a society, to operate giving the judges or magistrates, those who under our constitution are required to make a determination as to whether a warrant or a warrant for a search or arrest should be issued, giving them the opportunity, they have to do it on irregular business hours, we need to be able to give them that opportunity. We can do that through modern technology. All that this bill does, is recognize that we have modern technology, it can be used and it can be used appropriately. Now Senator Wheeler has described a particular circumstance. I believe that that circumstance still would be inappropriate even under this bill. If a police officer showed up at my door without proof that they had a warrant, that police officer should not be able to enter my house, whether this bill is passed or not. I don't believe that is relevant or germane to this situation. The bottom line is, I believe that in this particular case, we have to recognize that the facsimile transmission is here, and that we should allow our law enforcement officials to apply it as well as our businesses and the rest of the public.

SENATOR WHEELER: Senator Gordon, would you believe, that I don't believe that this bill is about facsimile transmissions, because I don't have a problem with facsimile transmissions because there is a paper trail. My question is this: When the police send the affidavit to the court, does that affidavit have to be in the court in writing before or can it arrive after the actual search takes place or the order takes place?

SENATOR GORDON: What ordinarily happens in circumstances like this, is that the oath is given. This particular bill authorizes a judge or the magistrate to take the oath of the police officer over the telephone.

SENATOR WHEELER: Senator Gordon, where is the paper trail . . . how does this bill guarantee that the police have a warrant or an order in writing, in their hands, when they come knocking on your door? The bill uses the word "telephonically" the same issue that we just went through with search warrants and arrest warrants?

SENATOR GORDON: My understanding is that, facsimiles operate telephonically. Perhaps I am mistaken, but that is my understanding that facsimiles operate telephonically. If a police officer were to show up at my door, I would ask him or her to show proof, that they in fact, did have a warrant. If they didn't, I think that I would be justified in not allowing them to enter my home or to arrest me under those circumstances. But they have to be able to offer some proof. The oath can be taken over the telephone, that can be done and should be done.

SENATOR WHEELER: Why didn't this Committee of Conference choose to eliminate the word "telephonic" like the Committee of Conference on the search warrant bill chose to eliminate to make certain that the word "telephonic" does not get interpreted as orally?

SENATOR GORDON: I guess the only way that I can answer that is that the Committee of Conference apparently didn't consider that to be a problem.

SENATOR WHEELER: Thank you, Senator.

SENATOR COLANTUONO: I want to correct the information that was given about what this bill concerns. This bill does not concern search warrants or arrest warrants or any other criminal matter. This bill just refers to RSA 173-B which is the domestic violence law. It has to do with temporary domestic violence orders when someone claims that they have been abused and the court issues an order to get the other person out of the home. Right now you can get orders over the telephone or by facsimile after court business hours on nights and weekends. We passed that law several years ago. What the House version of this bill does, is allow a person to get a telephone domestic violence order 24 hours a day, even during normal court hours. So when that bill came to the Senate, we said, "you can't do that." If a judge is down at the court house, you can at least go down to the court house and explain your story to get an order of such importance. I think that what the Senate did was very appropriate, but the House wouldn't accept that apparently and fought us in the Committee of Conference and we gave in to the House position. I am strongly opposed to the Committee of Conference Report, because I don't think that it is right that a person can sit at home and dial up a court and get a domestic violence restraining order over the phone, it is almost like the home shopping network here. When the courts are open, you should have to go to the courts, and when they are not open, then you can use the emergency provisions that we have in the law now. So, simply on that basis, I believe that the Senate position was the right position. I want to say that there is nothing else in this bill that is of any importance at all. If we do not adopt the Committee of Conference report, the law stays in place just as it is now, and the law is working fine now, so we are not jeopardizing any other important issue here. Thank you.

SENATOR COHEN: Senator Gordon, is it not true that there is in fact, a paper trail, and that one of the things that the Committee of Conference worked on was the amount of time in which papers had to be delivered and catch up?

SENATOR GORDON: The answer to that is yes. The paper has to be submitted to the court and to the magistrate who issued the order in a timely manner.

SENATOR COHEN: Is it also not true that the New Hampshire state organization which is most dedicated to watching out and having its antennas up against any excess police intrusions, namely the New Hampshire Civil Liberties Union, never once appeared in opposition to this bill?

SENATOR GORDON: I believe that is true. I have no reason to believe that that is not true, although I wasn't necessarily at all of the hearings and can't attest to that fact.

SENATOR COHEN: I believe that to be true. Thank you.

SENATOR RUSSMAN: I am sure that it is through inadvertence, but I think that perhaps Senator Gordon was a little incorrect on the information. Looking at the statute itself that it moves to amend, the temporary relief. It does allow orders to be made telephonically, in fact, similarly the court may issue such temporary orders by telephone or by facsimile during times other than regular court business hours. That section is already law. "Such telephonically issued orders may be made

by a district or superior court judge to a law enforcement officer, and shall be valid in any jurisdiction in the state and shall be effective until the close of the next regular court business day." So I guess that I don't see the need to go further than that. It is already in there, frankly looking at it, I am not so certain where the actual change is, because the wording to me, looks like what we already presently have in statute in terms of . . . one difference would be, it says "upon a showing in the law" and in the Senate version it says, "upon a finding." Just so everybody understands, we are comparing apples to apples here, so that we all know what we are doing. The present law says, "upon a showing" the House version which actually goes back to what it was . . . if anything the Senate's version would have made it tighter because it required a "finding" instead of a "showing." Those are two different things. But going back to the House version, it does not appear that there is anything in there that is different from the law at this point; and certainly, there is going to be no greater opportunity for relief for somebody that is suffering from domestic violence. I mean I think that the law as it is . . . it looks to me, potentially, that the House version may actually be the same. TAPE CHANGE It was unclear, but what they are trying to do is to take out of the present law . . . it says that the court may issue such temporary orders by telephone or by facsimile during times other than regular business hours. They want to take out "during times other than regular business hours. For example, the only time that you can do it by the telephone if it is other than regular business hours right now, if the judge is not there, for example, supposedly they are away or what have you, and they go . . . the court can do it all by telephone even during regular business hours. So what the House version is seeking to do, is to do it over the telephone, during hours other than or while the court would actually, normally be in session. So that they could do it between nine and five or eight and five. I think that what Senator Colantuono was thinking about, is that it was the other way around, that perhaps they could do it . . . that under this law that they would be able to do it any time day or night. Well under the present law, they can do it any time during the night, if you will, other than court hours. This allows it to be done during the day, if a judge is away. Not that they would be off skiing, but let us suppose that they were off skiing or something and they got him at Waterville Valley and they could do it telephonically during the day. So just so that everybody understands, that is what the issue is, it is taking out the provision requiring it by telephone to be other than regular hours.

SENATOR WHEELER: Senator Russman, isn't it also true under the language of this bill, that they could do it telephonically if the judge was there and that could become the standard procedure?

SENATOR RUSSMAN: Yes, yes they could. That was a fair statement. It would eliminate during business hours, the requirement of somebody actually having to appear, which perhaps may be a concern to some people.

SENATOR CURRIER: Can they do it by jet calling, by calling the judge?

SENATOR RUSSMAN: I don't think that they can do it by E-mail yet.

SENATOR CURRIER: But that will be next.

SENATOR RUSSMAN: It may be.

SENATOR SHAHEEN: Senator Russman, isn't it true that we have a lot of district courts in the state where we don't have full-time judges who are there during regular court hours and that this allows for police in those situations to actually find the judge during regular court hours without having to deal with the confines of the statute as it is currently written?

SENATOR RUSSMAN: That component is true, that for example, in Exeter District Court, judge Cullen might be at his law practice most of the time and in court in the morning. So I think that what Senator Colantuono is getting at is the potential for this becoming a standard rather than an exception is there as far as just always doing it by telephone because it is easier than getting into the car and coming down. I think that is a concern that the people have. If the judge isn't available, that is different.

SENATOR GORDON: Just briefly, Mr. President. I am still embarrassed. I guess that is why I am standing up. I just wanted to explain my confusion. We did have HB 1545 which dealt specifically with the issue of faxed search warrants and arrest warrants earlier today, and that is where I was confused. That did deal with the issue of approving or approval of faxed warrants. One thing that I would like to say on SB 573 is that in order for this to be valid, there has to be a finding by the court, not just a showing, which that was also a change in the wording, but a finding by the court, that there is a present danger of abuse. I think that is a critical issue, because it is a showing in the House version, but there needs to a showing of an immediate danger of abuse. I think that is critical here because I don't think that it can become routine. I think that the judge has to make that showing in advance, and if the judge does make that showing, then it would be appropriate to issue the warrant under those circumstances.

Senator Currier moved the question.

Adopted.

A roll call was requested by Senator Wheeler.

Seconded by Senator Rubens.

The following Senators voted Yes: F. King, Gordon, Fraser, Currier, Rodeschin, Roberge, Blaisdell, Pignatelli, Larsen, Podles, Barnes, J. King, Russman, Shaheen, Delahunty, Keough, Cohen.

The following Senators voted No: Johnson, Rubens, Lovejoy, Wheeler, Colantuono, Danais.

Yeas: 17 - Nays: 6

Adopted.

Senator Stawasz in favor of SB 573.

6027L

COMMITTEE OF CONFERENCE REPORT ON SB 580

The committee of conference to which was referred Senate Bill 580, An Act relative to liquor licenses having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 36 with the following:

36 Effective Date. This act shall take effect upon its passage.

*Conferees on the
Part of the Senate*

Sen. Barnes, Dist. 17
Sen. Blaisdell, Dist. 10
Sen. Rubens, Dist. 5

*Conferees on the
Part of the House*

Rep. Horton, Coos 3
Rep. McKinney, Rock. 29
Rep. Clemons, Hills. 31
Rep. R. Kelley, Hills. 18

Senator Barnes moved concurrence.

Adopted.

5935L

COMMITTEE OF CONFERENCE REPORT ON SB 594

The committee of conference to which was referred Senate Bill 594, An Act prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency and relative to the polling place and to special meetings under the official ballot option having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 6 with the following:

6 Report. The committee shall report its findings and recommendations for legislation, on or before November 1, 1996, and November 1, 1997, to the governor, senate president, speaker of the house, senate clerk, house clerk, and state library.

*Conferees on the
Part of the Senate*

Sen. Rubens, Dist. 5
Sen. Blaisdell, Dist. 10
Sen. Colantuono, Dist. 14

*Conferees on the
Part of the House*

Rep. Behrens, Sull. 2
Rep. Metzger, Ches. 13
Rep. Noyes, Rock. 26
Rep. McGuirk, Ches. 1

Senator Rubens moved concurrence.

Adopted.

6054L

COMMITTEE OF CONFERENCE REPORT ON SB 599

The committee of conference to which was referred Senate Bill 599, An Act providing that school nurses shall be authorized to possess and administer certain drugs for disease prevention and emergency treatment, setting forth the duties of school nurses in the control and prevention of communicable disease, and requiring an education and monitoring component for regulating medication administration in a hospice house having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 2 with the following:

2 Duties of School Nurses; Control and Prevention of Communicable Disease. Amend RSA 200:38 to read as follows:

200:38 Control and Prevention of Communicable Diseases; *Duties of School Nurse.*

I. Each school nurse shall ensure that:

[I.](a) All children shall be immunized prior to school entrance in accordance with RSA 141-C:20-a.

[II.](b) All children shall be examined prior to school entrance and periodically during the school years to detect the presence of tuberculosis *in accordance with recommendations of the division of public health services, department of health and human services.*

(c) *All children shall have a complete physical examination prior to school entrance in accordance with RSA 200:32.*

II. If the provisions of paragraph I are not met, each school nurse shall be responsible for informing school administrators of the noncompliance and for assisting with meeting such requirements, unless the child is exempted under RSA 141-C:20-c.

Amend the bill by replacing section 4 with the following:

4 Medication Administration Program at a Hospice House. Amend RSA 326-B:17, IX(a)(2) to read as follows:

(2) Has successfully completed [a medication administration program] *an educational course* approved by the board of nursing and conducted by [a] registered [nurse] *nurses* licensed under this chapter. The board of nursing shall adopt rules, pursuant to RSA 541-A, relative to the criteria for the medication administration program [and], *including criteria for an education course*, the process [of] *for* approval [for a] *of* registered [nurse] *nurses* to conduct the [program] *course, and regulations for the monitoring of medication-authorized personnel in the administration of medications at the hospice house.*

*Conferees on the
Part of the Senate*

Sen. Lovejoy, Dist. 6
Sen. Stawasz, Dist. 12
Sen. Larsen, Dist. 15

*Conferees on the
Part of the House*

Rep. Amidon, Hills. 9
Rep. Warner, Merr. 7
Rep. K. Wheeler, Straf. 8
Rep. Sargent, Hills. 3

AMENDED ANALYSIS

Section 1 of this bill changes the term "medical examination" to "physical examination," and adds physician assistants and advanced registered nurse practitioners as individuals who may perform physical examinations of pupils.

Sections 2 and 3 of this bill provide that school nurses shall be authorized to possess and administer with written parental authorization certain drugs for disease prevention and emergency treatment, setting forth the duties of school nurses in the control and prevention of communicable disease.

Section 4 of this bill requires an education course as part of the medication administration program, and authorizes the board to adopt rules relative to regulations for monitoring medication-authorized personnel to administer medication at a hospice house.

Sections 1 and 2 of this bill are a request of the department of education. Section 3 is a request of the board of nursing.

Senator Lovejoy moved concurrence.

Adopted.

6040L

COMMITTEE OF CONFERENCE REPORT ON SB 610

The committee of conference to which was referred Senate Bill 610, An Act relative to municipal water, gas and electric utilities having considered the same, report the same with the following recommendations: having considered the same, report the committee is unable to reach agreement.

*Conferees on the
Part of the Senate*

Sen. Rodeschin, Dist. 8

Sen. Keough, Dist. 23

Sen. Cohen, Dist. 24

*Conferees on the
Part of the House*

Rep. J. Bradley, Carr. 8

Rep. MacGillivray, Hills. 21

Rep. Thomas, Belk. 3

Rep. Below, Graf. 13

Senator Rodeschin moved to adopt the Committee of Conference report.

Adopted.

6096L

COMMITTEE OF CONFERENCE REPORT ON SB 615

The committee of conference to which was referred Senate Bill 615, An Act relative to property left behind by tenants and relative to damage deposits for pets:

having considered the same, report the committee is unable to reach agreement.

*Conferees on the
Part of the Senate*

Sen. Stawasz, Dist. 12

Sen. Roberge, Dist. 9

Sen. Larsen, Dist. 15

*Conferees on the
Part of the House*

Rep. Gage, Rock. 16

Rep. Hunt, Ches. 10

Rep. Krueger, Sull. 9

Rep. Crosby, Merr. 20

Senator Stawasz moved to adopt the Committee of Conference report.

Adopted.

5963L

COMMITTEE OF CONFERENCE REPORT ON SB 623

The committee of conference to which was referred Senate Bill 623, An Act to provide an optional retirement program for employees of the department of regional community-technical colleges having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the
Part of the Senate*

Sen. Danais, Dist. 20
Sen. Fraser, Dist. 4
Sen. Blaisdell, Dist. 10

*Conferees on the
Part of the House*

Rep. Dyer, Hills. 8
Rep. Mercer, Hills. 27
Rep. Steere, Ches. 11
Rep. Stettenheim, Sull. 1

Senator Danais moved concurrence.

Adopted.

6005L

COMMITTEE OF CONFERENCE REPORT ON SB 625

The committee of conference to which was referred Senate Bill 625, An Act relative to insurance fraud having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 417:29 as inserted by section 1 of the bill by replacing it with the following:

417:29 Fraud Unit Material Information Disclosure. The unit's papers, documents, reports, or evidence relative to the subject of investigation under this section shall remain confidential and shall not be subject to public inspection or disclosure. Further, such papers, documents, reports, or evidence relative to the subject of an investigation under this section shall be privileged and shall not be subject to subpoena, discovery, or disclosure in any proceeding other than the action initiated by the unit, except as specifically authorized in this subdivision. For the purposes of this section, investigative materials shall include the testimony of unit personnel concerning any matter of which they have knowledge pursuant to a pending insurance fraud investigation by the unit.

*Conferees on the
Part of the Senate*

Sen. Danais, Dist. 20
Sen. F. King, Dist. 1
Sen. J. King, Dist. 18

*Conferees on the
Part of the House*

Rep. B. Packard, Hills. 19
Rep. Gage, Rock. 26
Rep. Hunt, Ches. 10
Rep. Syracuse, Rock. 33

Senator Danais moved concurrence.

Adopted.

6099L

COMMITTEE OF CONFERENCE REPORT ON SB 633-FN-A

The committee of conference to which was referred Senate Bill 633-FN-A, An Act relative to victim restitution and compensation and making an appropriation therefor having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and

That the House recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Claimant Eligibility. RSA 21-M:8-h, I is repealed and reenacted to read as follows:

I.(a) Victims eligible for compensation are:

(1) any person who sustains personal injury as a result of a felony or misdemeanor;

(2) any person who sustains personal injury caused by a person driving under the influence of alcohol or controlled substances.

(3) any person who is a victim of sexual abuse and is under the age of 18 at the time the claim is filed.

(b) In the case of a child victim, the claimant, guardian ad litem, advocate or parent may claim compensation in the victim's stead. If the victim is incompetent or in the case of a victim's death as a direct result of the crime, the immediate family of the victim is eligible to claim compensation. In the case of a victim's disability as a direct result of the crime, the victim's legal representative may claim compensation in the victim's stead.

2 Recovery Limitation Raised. Amend RSA 21-M:8-h, V to read as follows:

V. The claimant may be reimbursed for reasonable out-of-pocket expenses, medical expenses, funeral expenses, counseling expenses and lost wages directly resulting from the crime. No reimbursement shall be paid unless the claimant has incurred reimbursable expenses of at least \$100. There shall be a [\$5,000] **\$10,000** ceiling on recovery per claimant per incident. If expenses paid through the victims' assistance program fund are later covered by insurance settlements, civil suit settlements, or restitution, or through any other source, the claimant shall reimburse the fund for the amount of expenses recovered.

3 New Paragraph; Eligible Until Claim Fully Satisfied. Amend RSA 21-M:8-h by inserting after paragraph V the following new paragraph:

VI. Notwithstanding any right by a victim to claim restitution or a court order for restitution under RSA 651:62-67, a victim shall be eligible for compensation under this section.

4 Word Deleted. Amend RSA 504-A:13, I to read as follows:

I. The court shall establish a supervision fee for probationers, and the parole board shall establish a supervision fee for parolees. The fee shall not be less than \$40 a month, unless waived in whole or in part by the court, board or commissioner, and may be any greater amount as established by the court or board. This fee shall be considered a condition of release, and failure to satisfy this obligation shall be grounds for a violation hearing, unless the probationer or parolee has been found to be indigent and, for that reason, unable to pay the fee. Service charges for collection of fines[, restitution,] and fees, other than supervision fees, shall be established at 10 percent of the funds collected.

5 Conditions for Suspension of Sentence; Restriction Required. RSA 651:20, III is repealed and reenacted to read as follows:

III. As a condition of any suspension of sentence, the court may include restitution to the victim, as provided in RSA 651:62-67, performance of uncompensated public service as provided in RSA 651:68-70, and such other conditions as the court may determine.

6 New Section; Restitution; Statement of Purpose. Amend RSA 651 by inserting after section 61 the following new section in the subdivision "Restitution":

651:61-a Statement of Purpose.

I. The legislature finds and declares that the victims of crimes often suffer losses through no fault of their own and for which there is no compensation. It also finds that repayment, in whole or in part, by the offender to the victim can operate to rehabilitate the offender. It is the purpose of this act to establish a presumption that the victim will be compensated by the offender who is responsible for the loss. Restitution by the offender can serve to reinforce the offender's sense of responsibility for the offense, to provide the offender the opportunity to pay the offender's debt to society and to the victim in a constructive manner, and to ease the burden of the victim as a result of the criminal act.

II. The legislature does not intend that restitution be contingent upon an offender's current ability to pay or upon the availability of other compensation. The legislature intends that the court increase, to the maximum extent feasible, the number of instances in which victims receive restitution. The legislature does not intend the use of restitution to result in preferential treatment for offenders with substantial financial resources.

7 Restitution. RSA 651:62-64 are repealed and reenacted to read as follows:

651:62 Definitions. As used in this subdivision, unless the context otherwise indicates:

I. "Claimant" means a victim, dependent, or any person legally authorized to act on behalf of the victim.

II. "Dependent" means any person who was wholly or partially dependent upon the victim for care and support when the crime was committed.

III. "Economic loss" means out-of-pocket losses or other expenses incurred as a direct result of a criminal offense, including:

(a) Reasonable charges incurred for reasonably needed products, services and accommodations, including but not limited to charges for medical and dental care, rehabilitation, and other remedial treatment and care including mental health services for the victim or, in the case of the death of the victim, for the victim's spouse and immediate family;

(b) Loss of income by the victim or the victim's dependents;

(c) The value of damaged, destroyed, or lost property;

(d) Expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured or deceased victim would have performed, if the crime had not occurred, for the benefit of the victim or the victim's dependents;

(e) Reasonable expenses related to funeral and burial or crematory services for the decedent victim.

IV. "Offender" means any person convicted of a criminal or delinquent act.

V. "Restitution" means money or service provided by the offender to compensate a victim for economic loss, or to compensate any collateral source subrogated to the rights of the victim, which indemnifies a victim for economic loss under this subdivision.

VI. "Victim" means a person or claimant who suffers economic loss as a result of an offender's criminal conduct or the good faith effort of any person attempting to prevent or preventing the criminal conduct.

651:63 Restitution; Administrative Fees.

I. Any offender may be sentenced to make restitution in an amount determined by the court. In any case in which restitution is not ordered, the court shall state its reasons therefor on the record or in its sentence.

ing order. Restitution may be ordered regardless of the offender's ability to pay and regardless of the availability of other compensation; however, restitution is not intended to compensate the victim more than once for the same injury. A restitution order is not a civil judgment.

II. Restitution ordered shall be in addition to any other penalty or fine and may be a condition of probation or parole. Restitution, if ordered, may also be a condition of any work release program administered under RSA 651:19 or RSA 651:25.

III. The making of a restitution order shall not affect the right of a victim to compensation under RSA 21-M:8-h, except to the extent that restitution is actually collected pursuant to the order. The offender shall reimburse the victims' assistance fund for any payments made by the fund to the victim pursuant to RSA 21-M:8-h after the restitution order is satisfied. Refused or unclaimed restitution payments shall be made to the victims' assistance fund.

IV. The court's determination of the amount of restitution shall not be admissible as evidence in a civil action. The court shall reduce any civil damage awards by restitution ordered and paid to the victim. Restitution orders shall survive bankruptcy.

V. The court shall add 17 percent to the total restitution payment as an administrative fee to be paid by the offender. Such administrative fee shall be divided into the following components, to be designated as follows: 15 percent shall be continually appropriated to a special fund for the division of field services, department of corrections, \$22,500 of which shall lapse to the general fund at the end of each quarter should that amount be received, to maximize restitution collections, directly or through agents of contractors selected by the department; and 2 percent for the victims' assistance fund. Administrative fees shall be paid by the offender in addition to and when each restitution payment is made.

VI. Restitution, administrative fines and fees, and other fees collected, except for supervision fees pursuant to RSA 504-A:13, shall be allocated on a pro-rata basis when payments are insufficient to cover the full amount due for each of these balances.

VII. On or before July 1, 1997, and each year thereafter until July 1, 2000, the division of field services, department of corrections, shall submit an annual budget plan to the joint legislative fiscal committee. The division of field services, department of corrections, shall have the authority to hire temporary personnel and to procure equipment and expend relevant operating expenses as may be necessary to implement this chapter.

651:64 Time and Method of Restitution.

I. The time and method of restitution payments or performance of restitution services shall be specified by the department of corrections. Monetary restitution may be by lump sum, or by periodic installments in any amounts. The court shall not be required to reduce the total obligation as a result of the offender's inability to pay. The offender shall bear the burden of demonstrating lack of ability to pay. Restitution shall be paid by the offender to the department of corrections unless otherwise ordered by the court. Monetary restitution shall not bear interest. Restitution shall be made to any collateral source or subrogee, if authorized by that source and after restitution to the victim, and to the victims' assistance fund, if applicable, has been satisfied. Restitution shall be a continuing obligation of the offender's estate and shall inure to the benefit of the victim's estate, provided that no indebtedness shall pass to any heir of the offender's estate.

II. The department of corrections shall have continuing authority over the offender for purposes of enforcing restitution until the restitution order is satisfied.

III. The department may garnish the offender's wages for the purpose of ensuring payment of victim restitution.

8 New Subparagraph; Money Deposit Designated. Amend RSA 6:12, I by inserting after subparagraph (II) the following new subparagraph:

(mmm) Moneys received pursuant to RSA 651:63, V designated for the department of corrections shall be deposited into an account to fund the operating appropriation of the division of field services, department of corrections. Unexpended account balances in excess of \$50,000 at the end of any fiscal year shall lapse to the general fund.

9 Deposit to Victims' Assistance Fund Designated. Amend RSA 6:12, I(aa) to read as follows:

(aa) The assessments collected under RSA 188-F:31 **and 651:63, V designated for the victims' assistance fund** which shall be credited to the victims' assistance fund until that fund exceeds \$750,000, at which time moneys in excess of \$750,000 shall be credited to the general fund.

10 New Section; Court Order for Certain Services, Placements, and Programs Required. Amend RSA 169-B:19 by inserting after section 19-b the following new section:

169-B:19-c Court Order for Services, Placements, and Programs Required for Minors From Certain Providers Qualified for Third-Party Payment. The court, wherever and to the extent possible, shall order services, placements, and programs by providers certified pursuant to RSA 170-G:4, XVIII who qualify for third-party payment under any insurance covering the minor.

11 New Section; Court Order for Certain Services, Placements, and Programs Required. Amend RSA 169-C:19 by inserting after section 19-b the following new section:

169-C:19-c Court Order for Services, Placements, and Programs Required for Minors From Certain Providers Qualified for Third-Party Payment. The court, wherever and to the extent possible, shall order services, placements, and programs by providers certified pursuant to RSA 170-G:4, XVIII who qualify for third-party payment under any insurance covering the minor.

12 New Section; Court Order for Certain Services, Placements, and Programs Required. Amend RSA 169-D:17 by inserting after section 17-b the following new section:

169-D:17-c Court Order for Services, Placements, and Programs Required for Minors From Certain Providers Qualified for Third-Party Payment. The court, wherever and to the extent possible, shall order services, placements, and programs by providers certified pursuant to RSA 170-G:4, XVIII who qualify for third-party payment under any insurance covering the minor.

13 Delinquent Minors; Parental Liability for Services Recoverable for 4 Years. RSA 169-B:40, I(c) is repealed and reenacted to read as follows:

(c) The state shall have a right of action over for such expenses against the parents or the people chargeable by law for the minor's support and necessities and the right to require parents or other people chargeable by law for the minor's support and necessities to assign to the state any insurance benefits that may be available to pay for all or a portion of the services provided. The department shall request reimbursement for such expenses from parents or other people chargeable by law for the minor's support and shall request assignment to the state of any

insurance benefits that may be available to pay for all or a portion of the services provided. The court shall require the individual chargeable by law for the minor's support and necessities to submit a financial statement annually to the court upon which the court shall make an order as to reimbursement to the state as may be reasonable and just, based on the person's ability to pay. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance benefits available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per month or per week basis and shall continue from the time the services begin until 4 years beyond the time such services end, unless such reimbursement is fully paid prior to the end of the 4-year period. The court's jurisdiction to order reimbursement shall continue until the court-ordered obligation to reimburse has been fulfilled. If the court does not issue a reimbursement order, the court shall issue written findings explaining why such reimbursement is not ordered.

14 Abused or Neglected Children; Parental Liability for Services Recoverable for 4 Years. RSA 169-C:27, I(c) is repealed and reenacted to read as follows:

(c) The state shall have a right of action over for such expenses against the parents or the people chargeable by law for the child's support and necessities and the right to require parents or other people chargeable by law for the minor's support and necessities to assign to the state any insurance benefits that may be available to pay for all or a portion of the services provided. The department shall request reimbursement for such expenses from parents or people chargeable by law for the minor's support and necessities and shall request assignment to the state of any insurance benefits that may be available to pay for all or a portion of the services provided. The court shall require the individual chargeable by law for the child's support and necessities to submit a financial statement annually to the court upon which the court shall make an order as to reimbursement to the state as may be reasonable and just, based on the person's ability to pay. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance benefits available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per month or per week basis and shall continue from the time the services begin until 4 years beyond the time such services end, unless such reimbursement is fully paid prior to the end of the 4-year period. The court's jurisdiction to order reimbursement shall continue until the court-ordered obligation to reimburse has been fulfilled. If the court does not issue a reimbursement order, the court shall issue written findings explaining why such reimbursement is not ordered.

15 Children in Need of Services; Parental Liability for Services Recoverable for 4 Years. RSA 169-D:29, I(c) is repealed and reenacted to read as follows:

(c) The state shall have a right of action over for such expenses against the parents or the people chargeable by law for the child's support and necessities and the right to require parents or other people chargeable by law for the minor's support and necessities to assign to the state any insurance benefits that may be available to pay for all or a portion of the services provided. The department shall request reimbursement for such expenses from parents or people chargeable by law for the

minor's support and shall request assignment to the state of any insurance benefits that may be available to pay for all or a portion of the services provided. The court shall require the individual chargeable by law for the child's support and necessities to submit a financial statement annually to the court upon which the court shall make an order as to reimbursement to the state as may be reasonable and just, based on the person's ability to pay. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance benefits available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per month or per week basis and shall continue from the time the services begin until 4 years beyond the time such services end, unless such reimbursement is fully paid prior to the end of the 4-year period. The court's jurisdiction to order reimbursement shall continue until the court-ordered obligation to reimburse has been fulfilled. If the court does not issue a reimbursement order, the court shall issue written findings explaining why such reimbursement is not ordered.

16 New Paragraph; Adoptive Parents of Delinquent Children. Amend RSA 169-B:40 by inserting after paragraph VII the following new paragraph:

VIII. Upon request by the adoptive parent of a child whose birth parents relinquished their parental rights to the department or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, the state, acting through the commissioner, may waive its right of action against such adoptive parent for all or a portion of the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.

17 New Paragraph; Adoptive Parents of Abused or Neglected Children. Amend RSA 169-C:27 by inserting after paragraph VII the following new paragraph:

VIII. Upon request by the adoptive parent of a child whose birth parents relinquished their parental rights to the department or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, the state, acting through the commissioner, may waive its right of action against such adoptive parent for all or a portion of the expenses of services, placements and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. The department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.

18 New Paragraph; Adoptive Parents of Children in Need of Services. Amend RSA 169-D:29 by inserting after paragraph VII the following new paragraph:

VIII. Upon request by the adoptive parent of a child whose birth parents relinquished their parental rights to the department or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, the state, acting through the commissioner, may waive its right of action against such adoptive parent for all or a portion of the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C or 169-D after the adoption. The

department shall adopt rules under RSA 541-A to establish the procedure to be followed to obtain a waiver of parental reimbursement pursuant to this paragraph.

19 Administrative Fees Reduced. Amend RSA 651:63, V to read as follows:

V. The court shall add [17] **2** percent to the total restitution payment as an administrative fee to be paid by the offender *which shall be allocated to the* [Such administrative fee shall be divided into the following components, to be designated as follows: 15 percent shall be continually appropriated to a special fund for the division of field services, department of corrections, \$22,500 of which shall lapse to the general fund at the end of each quarter should that amount be received, to maximize restitution collections, directly or through agents of contractors selected by the department; and 2 percent for the] victims' assistance fund. Administrative fees shall be paid by the offender in addition to and when each restitution payment is made.

20 Application of 1995, 308:60, 73, and 85; State's Right of Action for Recovery of Expenses and Transaction Costs for a Minor's Support. The provisions of RSA 169-B:40, I(c); 169-C:27, I(c); and 169-D:29, I(c) as amended by 1995, 308:60, 308:73, and 308:85, shall not be applied retroactive to July 1, 1995.

21 Repeal. The following are repealed:

I. RSA 21-M:8-I, I, relative to rehabilitation as a purpose for restitution.

II. 1981, 329:1, relative to the purpose for restitution.

22 Effective Date.

I. Sections 10-12 of this act shall take effect upon its passage.

II. Section 19 of this act shall take effect on July 1, 2001.

III. The remainder of this act shall take effect July 1, 1997.

*Conferees on the
Part of the Senate*

Sen. Rubens, Dist. 5
Sen. Wheeler, Dist. 11
Sen. Cohen, Dist. 24

*Conferees on the
Part of the House*

Rep. Lozeau, Hills. 30
Rep. Knowles, Straf. 11
Rep. Klemm, Rock. 28
Rep. Lockwood, Merr. 9

AMENDED ANALYSIS

This bill:

I. Makes more people eligible for restitution and increases the amount which may be awarded to victims.

II. Increases ceiling on recovery per claimant per incident.

III. Changes the procedure by which restitution is awarded, collected and distributed.

IV. Increases administrative fees paid on restitution payments.

V. Designates percentages of administrative fees for continual appropriation to a special fund established for the division of field services, department of corrections and for the victims' assistance fund.

VI. Establishes a special fund for the operating appropriation of the division of field services, department of corrections.

VII. Repeals certain RSA provisions relative to restitution.

VIII. Requires the court to order services, placements, and programs by certain providers who qualify for third-party payment under any insurance covering certain minors.

IX. Establishes parental liability for services recoverable for 4 years.

X. Allows the state to waive its right of action against certain adoptive parents for some or all of the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C, or 169-D after the adoption.

Senator Rubens moved concurrence.

Adopted.

6007L

COMMITTEE OF CONFERENCE REPORT ON SB 635-FN

The committee of conference to which was referred Senate Bill 635-FN, An Act relative to cost of living adjustments for retired firefighters having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the
Part of the Senate*

Sen. Danaïs, Dist. 20
Sen. Russman, Dist. 19
Sen. J. King, Dist. 18

*Conferees on the
Part of the House*

Rep. Dyer, Hills. 8
Rep. Steere, Ches. 11
Rep. Stettenheim, Sull. 1
Rep. R. Wheeler, Hills. 7

Senator Danaïs moved concurrence.

Adopted.

6084L

COMMITTEE OF CONFERENCE REPORT ON SB 646-FN

The committee of conference to which was referred Senate Bill 646-FN, An Act establishing a committee to study alternative sentencing for persons convicted of drug-related offenses and nonviolent crimes:

having considered the same, report the committee is unable to reach agreement.

*Conferees on the
Part of the Senate*

Sen. Podles, Dist. 16
Sen. F. King, Dist. 1
Sen. Pignatelli, Dist. 13

*Conferees on the
Part of the House*

Rep. Lozeau, Hills. 5
Rep. Knowles, Straf. 11
Rep. Christie, Rock. 22
Rep. D. Sytek, Rock. 26

Senator Podles moved to adopt the Committee of Conference report.

Adopted.

6039L

COMMITTEE OF CONFERENCE REPORT ON SB 656-FN

The committee of conference to which was referred Senate Bill 656-FN, An Act expanding drug-free school zones to include Head Start facilities having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and

That the House recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the
Part of the Senate*

Sen. Lovejoy, Dist. 6
Sen. Gordon, Dist. 2
Sen. J. King, Dist. 18

*Conferees on the
Part of the House*

Rep. Spear, Straf. 8
Rep. Searles, Hill. 23
Rep. Larson, Graf. 8
Rep. White, Hills. 46

Senator Lovejoy moved concurrence.

Adopted.

5965L

COMMITTEE OF CONFERENCE REPORT ON SB 659

The committee of conference to which was referred Senate Bill 659, An Act allowing self-employed persons or business owners who have paid into the unemployment compensation fund to collect benefits having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the
Part of the Senate*

Sen. Danaïs, Dist. 20
Sen. F. King, Dist. 1
Sen. Blaisdell, Dist. 10

*Conferees on the
Part of the House*

Rep. Hawkins, Rock. 20
Rep. Bishop, Rock. 12
Rep. Attar, Rock. 29
Rep. Palmer, Sull. 11

Senator Danaïs moved concurrence.

Adopted.

Recess.

Senator Delahunty in the Chair.

Senator Podles offered the following Resolution:

5990L
96-2940
05/08

SR 6

STATE OF NEW HAMPSHIRE

In the year of Our Lord

One Thousand Nine Hundred and Ninety-Six

A RESOLUTION

requesting an opinion of the justices concerning the
constitutionality of HB 1549 and withdrawing
a previous request for an opinion
of the justices.

Whereas, the senate, on April 18, 1996, adopted Senate Resolution 3 requesting an opinion of the justices concerning the constitutionality of

HB 1549 and, having reconsidered the questions of law posed in that resolution, has found it advisable to substitute different questions of law; and

Whereas, there is pending in the senate, HB 1549, "An Act relative to the admissibility of a prior sexual assault into evidence in certain prosecutions" as amended by the house; and

Whereas, the senate has adopted an amendment to HB 1549 (document #5798L); and

Whereas, RSA 632-A:6 as proposed by HB 1549, as amended, would, in criminal prosecutions for offenses set forth in RSA 632-A, for incest and endangering the welfare of a child or incompetent in violation of RSA 639, and for attempts and conspiracies to commit those crimes, and in civil suits for sexual assault, establish a rebuttable presumption that evidence of any other sexual assault committed by the defendant is admissible and may be considered for any relevant purpose other than showing the defendant's character; and

Whereas, RSA 632-A:6 as proposed by HB 1549, as amended, would, in cases where there is evidence of other sexual assaults by the defendant against the same victim, establish a rebuttable presumption that such evidence is admissible to show the defendant's motive or intent, the context of the assault in question, and the relationship of the parties; and

Whereas, RSA 632-A:6 as proposed by HB 1549, as amended, would, in cases where there is evidence of other sexual assaults by the defendant against different victims, establish a rebuttable presumption that such evidence is admissible to show the defendant's motive and intent; and

Whereas, RSA 632-A:6 as proposed by HB 1549 as amended would prohibit the exclusion of the evidence unless the trial court finds that the probative value of such evidence is substantially outweighed by the danger of unfair prejudice to the defendant; and

Whereas, numerous statutes already in effect address the admissibility of various types of evidence in judicial proceedings; now, therefore, be it

Resolved by the Senate;

That the questions of law submitted in Senate Resolution 3 adopted by the senate April 18, 1996, be withdrawn from the Justices of the Supreme Court; and

That the Justices of the Supreme Court be respectfully requested to give their opinion on the following questions of law;

1. Would enactment of HB 1549, as amended, violate Part I, Article 37 of the New Hampshire Constitution?

2. Would enactment of HB 1549, as amended, violate Part II, Article 73-a of the New Hampshire Constitution?

That the clerk of the senate transmit copies of this resolution and HB 1549, as amended, to the Justices of the New Hampshire Supreme Court.

SENATOR PODLES: I would like to offer SR 6, it is requesting an opinion of the justices concerning the constitutionality of HB 1549. We did that some time ago. What I am doing is withdrawing a previous request for that opinion of the justices and replacing it with another Senate Resolution and this one is from the attorney general's office. We are just replacing it. A lot of the parts have been changed, sections have been deleted. I think that it is a better resolution. It is more modified. I would ask you to pass this resolution.

Adopted.

6085L

COMMITTEE OF CONFERENCE REPORT ON SB 7-FN-A

The committee of conference to which was referred Senate Bill 7-FN-A, An Act relative to kindergarten aid programs, the establishment of certain kindergarten aid funds, and making an appropriation therefor having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose.

I. Section 2 of this bill establishes a kindergarten aid program and alternative kindergarten aid program to be administered by the department of education. The purpose of these programs is to provide state assistance to districts which presently operate kindergarten to ensure the continuation of such programs, and to encourage districts which do not provide kindergarten to make kindergarten available.

II. The kindergarten aid and alternative aid programs shall consist of 2 categories of assistance. One category provides kindergarten aid to districts which provide and maintain public kindergarten programs, and the second category provides alternative kindergarten aid to school districts which elect not to participate in the kindergarten aid program.

2 New Subdivision; Kindergarten Aid and Alternative Kindergarten Aid. Amend RSA 198 by inserting after section 15-k the following new subdivision:

Kindergarten Aid and Alternative Kindergarten Aid**198:15-l Kindergarten Aid.**

I. There is established a kindergarten aid program through which the department of education shall pay annually for financial assistance to local school districts the sum of \$500 per eligible kindergarten pupil who resides in the district and attends a public kindergarten in those districts that provide and maintain a public kindergarten program. These funds shall be provided to districts that send to or contract with other established public kindergarten programs for their local resident kindergarten pupils.

II. For purposes of receiving public kindergarten aid under this section, to "provide and maintain a public kindergarten program" means:

(a) To operate a kindergarten program within an approved public school maintained by the local school district; or

(b) To pay tuition on behalf of resident pupils to a kindergarten program operated by another public school district in this state or, when distance or transportation make it necessary, in another state.

III.(a) In order to qualify for kindergarten aid, local district kindergarten programs shall meet New Hampshire minimum standards for approval of schools.

(b) Charter school kindergarten programs shall qualify for kindergarten aid.

198:15-m Administration. The department of education shall be responsible for administering the kindergarten aid program, and shall be responsible for the following:

I. Assisting districts in the development of plans for providing public kindergarten availability for their 5-year old resident pupils.

II. Reporting annually the extent of utilization of the public kindergarten aid to the house and senate education committees and the state board of education, and providing an annual update on the number of districts providing a public kindergarten program.

198:15-n Alternative Kindergarten Aid.

I. In lieu of participating in the kindergarten aid program provided in RSA 198:15-l and 198:15-m, a school district which does not provide a kindergarten program may submit to the commissioner of education a request for state aid for a local kindergarten plan or other proposal for learning preparedness.

II. Without limitation, a school district plan under this section may be based upon publicly-operated facilities or contractual arrangements with privately-operated facilities, which shall meet the same criteria as public kindergarten programs and be qualified by the state department of education.

III. Requests for alternative kindergarten aid shall be submitted at times established by the commissioner of education. A request shall be first approved by the school board or district voters and shall contain, at a minimum, the following information:

(a) A description of the kindergarten plan or other proposal;

(b) An explanation of how the plan will prepare children resident in the district to be ready to learn at the first grade level; and

(c) Any other information required by the commissioner.

IV. A school district approved for alternative kindergarten aid under this section shall receive the sum of \$500 per eligible kindergarten pupil who resides in the district.

198:15-o Report to Board of Education. On or before a date established by the commissioner of education, the school board of each school district that does not provide a kindergarten program or alternative kindergarten program provided under RSA 198:15-n shall submit to the state board of education a report describing the school district's plan for preparing children resident in the district to be ready to learn at the first grade level, or shall state that the district elects not to develop such a plan.

198:15-p Rulemaking. The state board of education shall adopt rules, under RSA 541-A, relative to the administration of the kindergarten aid program and alternative kindergarten aid program, including the eligibility requirements and method of payment for such aid. These rules shall provide that all school districts currently offering a kindergarten program or alternative kindergarten program shall be eligible for funds commencing June 30 of each year. The number of kindergarten pupils in attendance shall be determined by the number of kindergarten pupils in attendance in the district on October 1 of the preceding school year. Any school district implementing kindergarten in its district shall be eligible for these programs.

3 Appropriation. The sum of \$5,000,000 is hereby appropriated to the department of education for the fiscal year ending June 30, 1997, for the purposes section 2 of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

4 Section Heading Revised. Amend the section heading of RSA 193-C:9 to read as follows:

193-C:9 Local Education Improvement and Assessment Plan; **Assistance Program**.

5 Local Education Improvement Assistance Program Established. RSA 193-C:9, II is repealed and reenacted to read as follows:

II.(a) There is established within the department of education a local education improvement assistance program. The department shall use funds appropriated for this program to provide technical assistance and training to school districts in developing and implementing local education improvement and assessment plans based on assessment results.

(b) Funds shall be utilized to support school districts in the use of local and statewide assessment results to improve instruction and enhance student learning, and to identify and implement methods and models of instruction that have proven to be effective in helping students reach the educational standards identified in the New Hampshire curricular framework.

(c) A strong emphasis shall be placed on identifying model teachers in the areas included in the statewide education improvement and assessment program and providing them with opportunities to share their expertise and enthusiasm with local educators and community members in developing local education improvement and assessment plans.

(d) In implementing this program, the department may enter into grants or contracts with institutions of higher education, regional consortia, and private businesses. Grant recipients and contractors shall work in coordination with, and under the broad supervision of, the department of education.

6 Supplemental Appropriations; Local Education Improvement Assistance Program. The sums of \$1 for the fiscal year ending June 30, 1996, and \$1 for the fiscal year ending June 30, 1997, are hereby appropriated to the department of education for the local education improvement assistance program established in RSA 193-C:9, II. These appropriations shall not lapse until June 30, 1997. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated. These sums shall be in addition to any other sums appropriated to the department.

7 Repeal. RSA 186:69, relative to the school improvement program, is repealed.

8 Effective Date. This act shall take effect July 1, 1996.

*Conferees on the
Part of the Senate*

Sen. Lovejoy, Dist. 6
Sen. Barnes, Dist. 17
Sen. Larsen, Dist. 15

*Conferees on the
Part of the House*

Rep. Larson, Graf. 8
Rep. Franks, Hills. 26
Rep. Ferguson, Hills. 13
Rep. Snyder, Straf. 14

AMENDED ANALYSIS

This bill establishes a kindergarten aid program and alternative kindergarten aid program to be administered by the department of education. The purpose of these programs is to provide state assistance in the amount of \$500 per eligible kindergarten pupil to districts which presently operate kindergartens to ensure the continuation of such programs and to encourage districts which do not provide kindergarten to make kindergarten available. The bill also appropriates a sum of \$5,000,000 for the purposes of the programs.

This bill also establishes a local education improvement assistance program and makes appropriations to the department of education for such program.

Senator Lovejoy moved concurrence.

SENATOR COLANTUONO: I rise to speak to this bill primarily because I am the prime sponsor of this bill. I originally put it in at the beginning of this biennial session because I believed that this was an opportunity for New Hampshire to establish a precedent of getting some parental choice involved in an education establishment. My original bill had provisions to allow state funding of a kindergarten program within the context of allowing local districts to contract with private providers or to give vouchers or similar features to parents. The bill has had a lot of twists and turns throughout the last two years. The version that came out of the Committee of Conference report is certainly far different than my original bill. It retains some of the principles of my original bill and it has some things that I don't like about it, on balance, I think that it is a bill that I can support reluctantly, for one reason only, and that is because I have been assured by the governor's legal counsel, who has spoken to the attorney general's office, and to the attorney general personally, who assures her, that the language of this bill will allow local districts to establish voucher programs if they wish. The language of this bill allows alternative kindergarten programs which could be in the form of vouchers. It is for that reason, and that reason only, that I am going to support this bill. I have concerns about the funding, but the governor's office spent a substantial amount of time earlier today, telling us that there is funding available for this bill. I hope that is the case. I trust the judgement of the governor's budget experts that that will be the case. If it is not the case, then it will put us into a little bit of a bind, but I believe that getting a program established that will give some incentives to the towns in my districts that don't have kindergarten to start kindergarten programs, but will allow them the flexibility of establishing parental choice programs or private providers, is an excellent precedent to establish, and is a good idea for the people and the children in the state of New Hampshire. Thank you.

SENATOR RODESCHIN: Mr. President, I was going to ask a question, but Senator Colantuono already answered it in his address.

SENATOR CURRIER: I rise reluctantly, in opposition to the pending motion for a couple of reasons. The responsible thing to do, is in fact, is to provide a program for kindergarten. I am convinced of that. My voting record over the last eight years since I have been in the Senate, backs that up. However, this Committee of Conference report that you have before you, has language that was similar to what people were very critical towards in HB 52 and HB 32. That was that particular word that we all started using "notwithstanding any other provisions to the law." Well in this particular bill with the Committee of Conference, it says that the "Governor is authorized to draw a warrant for said sums ought of any money in the treasury, not otherwise appropriated." Which means that if you believe in the tooth fairy and Santa Claus, that there are monies there. We have in HB 1442, passed a bill that was a mid term fix to what we perceived as a \$46 million budget problem. With the figures that have been spit out this afternoon in the course of the day today, by adding \$5 million to kindergarten, it is now a \$53 million problem, including a shortfall that was attributed to a \$6 million shortfall in the treasury. The amount of money that we used to offset the recoupment program was \$20 million because we were told that that particular program was going to be \$20 to \$30 million. Now the figures that I have here that were furnished by the governor's budget director, shows that we are going to get \$33.7 million from the recoupment fund. So that has now grown by \$3

million. Now the responsible thing for the Senate to do, would be to have found the money to fund it. The Senate in fact, did do that, but we passed this bill with, I believe, \$2.7 million or something to that fact in it, which is an incentive program. Every piece of legislation that we have passed in the Senate has done the prudent thing in regard to the budget, it has funded it through some mechanism, real, not the tooth fairy. The Meals on Wheels is a prime example of that where we took the commissioners discretionary one percent fund and passed the amendment that was almost \$500,000 for Meals on Wheels which was HB 1253. To me, this is totally irresponsible to just grow the budget, while the governor was quoted, and I respect the governor and I care for him a lot; however, when he says in the newspaper article today that he would sell the state building, what he is doing here is he is not selling a state building, he is putting a mortgage on it. Quite frankly, I can't stand by and support that, as much as I favor adopting kindergarten, I can't stand here and say that I can just hold my nose and vote for this. One of the things that I guess that I don't have to worry about is that I am not running for reelection, so I can stand here with a clear conscience and say that I think that this is wrong to do what we are doing here just to add to the deficit. I won't say anything further than that. Thank you, Mr. President.

SENATOR LOVEJOY: This bill seems to meet the needs of those of us who throughout this session, throughout the last few years, expressed a recognition of the public's cry out for public kindergarten assistance in the state of New Hampshire. Each one of us responded and said that we recognized that need, that we recognized your request, we recognized the problem that we have in the state, that our first graders aren't entering the first grade as qualified as they could and should be, if we had kindergarten. Now this bill does several things. Three of the important things, Mr. President; one, we already have building aid that is an incentive for kindergarten construction, should kindergarten construction be required in the community. The \$500 per student, we recognize isn't enough to cover the cost of kindergarten, either public or private, but it is an incentive to start a kindergarten and it is an assistance to those communities that now provide kindergarten and for those who will adopt the kindergarten in the future because of this aid that the state has given. The third thing, and I think probably the most important thing or as important as anything else, certainly, is the fact that we have alternative aid in this bill. Alternative aid is something that gives choice. It gives choice to the parents to use a private kindergarten, if kindergarten isn't offered in their community or even if it is, if the curriculum is approved or has been approved by the state board and meets those minimum standards and that the kindergarten in the local school district, agree on a contract. That gives us local control. So as I say, Mr. President, it seems as though we have been able to bring all of the requirements of all of those of us who have been important and have had opposing views throughout this debate for a couple of years or for three years. It seems to bring all of the elements in, quite nicely into a package that should and could be accepted by everyone, and we can get the kindergarten program launched here in the state of New Hampshire. Thank you.

SENATOR WHEELER: Senator Lovejoy, isn't it true that local school districts could now contract out kindergarten if they wanted too?

SENATOR LOVEJOY: Well they could within their budget, not and receive state aid, obviously, Senator.

SENATOR WHEELER: Do any of those districts who have kindergarten, currently, right now, contract any of it out or do they do it all in-house?

SENATOR LOVEJOY: I don't know of any that do or I don't know of that situation, Senator.

SENATOR WHEELER: Thank you.

SENATOR PIGNATELLI: If someone would have bet me at the beginning of this session whether I thought that there would be a kindergarten bill passed by the end of this session and they asked me to bet my full year's \$100 salary, I would have bet there would be no kindergarten bill at the end of this session. But I am surprised, and I am very pleased and I offer my congratulations to the numerous people who have spent hours and hours on this bill and have finally brought us something that I think is a good bill. I would have liked to have seen a permanent solution to the funding of kindergarten, that is one of the reasons why I voted for the cigarette tax, because it would have meant that we wouldn't need to come back every year or every two years to deal with this issue again, but that was not to be. In addition to offering incentives to districts that do not have kindergarten now, for my district in Nashua, which has had to swallow hard and TAPE CHANGE part to Susan Franks who is a state Representative now, this bill would provide for property tax relief for Nashua in the amount of \$459,000 something that our taxpayers are crying out desperately for. So as sure as Senator Currier is that this is a mistake and the wrong way to go, I am just as sure that this is the right thing to do, and it is finally the right thing to do and the right time. Thank you, Mr. President.

SENATOR SHAHEEN: Today is probably the last time that I will stand on this floor as a member of the Senate to address an issue. I must tell you that it is with some satisfaction that I rise to speak in favor of SB 7. That despite all of the twists and turns, we have finally, at the end of this session, hopefully, we have been able to get a bill that we can agree on for kindergarten. Like Senator Pignatelli, I applaud those people who have worked so hard and the conferees on the Committee of Conference who have given us this bill. I think that for years in New Hampshire, those people who opposed kindergarten, argued that the value of kindergarten was not proven. They came up with new excuses to postpone the time when we would have to have a state program and join the other 49 states who actually have a public policy on kindergarten. I think, finally, we all agree that the price for inaction, has become so steep that any excuses for not supporting kindergarten have evaporated. We have before us now, SB 7. I am pleased to be able to tell the members of the Senate that this is one issue that Steve Merrill and I agree on this session. That kindergarten should be a priority for New Hampshire and we should find the money to fund it. During my six years in the state Senate I have supported every legitimate effort to bring kindergarten to the children of New Hampshire. I have supported those efforts regardless of who the sponsor was and the political party that they belonged to, because I think that this issue is bigger than partisan politics. While I think that we should all be proud of the legislation before us, I think that we should not fool ourselves or the members of the public in New Hampshire, about what the passage of this bill really means. It is definitely a step forward, but it is a small step forward. We won't know for at least a year whether the incentives in this bill are sufficient to encourage local communities to actually support kindergarten. We also won't know whether there is a will in the legislature to continue to fund this proposal. I would ask that

all of us who come back next year, and while I may not come back next year as a member of this Senate, I hope to be back next year. I ask that we pledge to keep our commitment to the children of the state of New Hampshire, not to remove funding from this bill next year, and to continue the program and to nurture it so that all of the communities in New Hampshire will be willing to support kindergarten for every child in this state who wants to attend. I urge the other members of the state Senate to support this legislation. I think that it is time, despite the concerns about the finances that we say that this is a priority that the state of New Hampshire can no longer ignore.

SENATOR KEOUGH: I do not divide people in this body into two groups, people who support kindergarten and people who oppose kindergarten, despite how anyone votes today, because I know that, at least to my best recollections, everyone in this Senate voted for kindergarten. I think that everyone in this Senate voted for SB 7 which was a good bill. It was a good bill for two reasons; number one, it was the right policy. The policy in SB 7 was a policy to try to provide assistance so that children who are not currently going to kindergarten, get to go to kindergarten. That was the policy behind SB 7. The other good thing about SB 7, is that it said where the money was going to come from. SB 7 said that excess Powerball revenues, which we know are going to come in above the appropriated amounts, would be used to fund kindergarten. So when SB 7 left here, it left here as a good bill. Then it went to the House and something bad happened. The first thing is, the policy changed. The policy that you see in this bill is not the policy that left the Senate. The policy in this bill is the policy that says that the state of New Hampshire should pay for kindergarten for every five-year-old. That is the policy that is behind this bill. When you hear that we shouldn't fool anybody or when you hear that this is a good beginning, or a good start, what that means is that those of you who are here next year will hear "now it is time to fully fund kindergarten," just like it is time to fully fund Augenblick. We have been hearing that. You should know where that path is headed. That path is headed to a place that is not \$5 million per year, it is not \$8 million per year. At the end of that path, is \$40 million a year. That is where this policy is headed. The second thing that I would add, that is wrong with the bill is, I concur with Senator Currier that I do think that it is a problem that no funding source has been identified. Congratulations to all of you. You know, today you get to act as the Senate Finance Committee. There is no Finance Committee to send it to anymore. This is it. I am proud to have served on the Finance Committee in the two years that I have been here. I can tell you that we have been in this situation lots of times. We were always guided by a simple principle, that if we were going to incur the obligation today, then we should say where the money is going to come from today. I think that principle is good for us coming up to this point, and I think that it is a good principle for a government to operate under going forward. I understand that I am probably on the losing side of this, but I have been there before, but I also understand that those who vote against this bill are not opposed to kindergarten, they are people who are looking for the right policy on kindergarten, and who are acting with some sense of fiscal responsibility.

SENATOR RUBENS: I rise in opposition to the bill here from the Committee of Conference. First of all, I voted in favor of two different kindergarten bills this year, first of all the \$2.7 million kindergarten bill that Senator Keough referenced which came out of the Senate Finance Com-

mittee and an \$8.3 million version of a kindergarten bill funded by the cigarette tax, so I am on the record of stating that I feel that we should have a kindergarten program that is funded. The second of three reasons that I am opposing this bill is, this is not a kindergarten bill, it is a revenue sharing bill. In year one, there is likely to be very, very little policy impact as a result of adoption of this bill by virtue of very, very few additional districts that now don't have kindergarten adopting it. So the argument that we are opening up the gateways for more kids to have kindergarten, at least in year one, which is the year that we are discussing right now, we are likely to have no policy impact. So again, this is revenue sharing and it is not kindergarten. That is a good thing. It is good for your municipalities, and it is politically easier to vote for revenue sharing, but I think that it is reckless and irresponsible because this is really a classic case of deficit spending. I became involved in politics as a citizen back about 25 years ago when I became incensed, disturbed about a course embarked on by the federal government when deficit spending began in earnest under the Carter administration and we can see where that has led. We can see that it has led to an overwhelming debt burden in the country that we are never going to dig ourselves out from and I feel that is the wrong way to go in the state of New Hampshire. Thank you.

SENATOR LARSEN: I rise to say that it has been an incredibly interesting process these last two years to watch the kindergarten proposals go through. All that I can say is that having served on the Committee of Conference which was my honor to do so with the other members, all that I can say is that the stars were lined up right and some of the stars are here today, and I want to say that I think that if nothing else today, we are making a statement that it is right for the state of New Hampshire to pay for kindergarten. It is right that we pass a bill that enables \$500 per pupil. We had a small proposal in SB 7 which would have encouraged other districts to enter in, but only six districts . . . we are sending the right message today, and that is that early education is so important for our children that we are willing to put ourselves on the line to fund it and we will fund it. We will find the money. I for one, and I know a number of people here, are willing to take the pledge that we will fund it in the future. We need this legislation in the laws. It is good for our children and it is good for all of us today to be able to say that we did work on this after 20 years, that we are finally seeing a kindergarten statement of importance for the state of New Hampshire, that it is important that we give our children this early education and the right first step in their lives. Thanks.

SENATOR F. KING: Senator Larsen, did I hear you say that you took the pledge?

SENATOR LARSEN: The kindergarten pledge.

Recess.

Out of recess.

A roll call was requested by Senator Keough.

Seconded by Senator Wheeler.

The following Senators voted Yes: F. King, Gordon, Fraser, Lovejoy, Rodeschin, Roberge, Blaisdell, Pignatelli, Colantuono, Larsen, Podles, Barnes, J. King, Russman, Danaïs, Shaheen, Delahunty, Cohen.

The following Senators voted No: Johnson, Rubens, Currier, Wheeler, Keough.

Yeas: 18 - Nays: 5

Adopted.

Senator Stawasz in favor of SB 7.

6124L

COMMITTEE OF CONFERENCE REPORT ON HB 530-FN

The committee of conference to which was referred House Bill 530-FN, An Act transferring the functions and duties of the director of state ski operations having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 216-A:3-i, I as inserted by section 7 of the bill by replacing it with the following:

I. The state treasurer shall establish a separate and distinct account to be known as the state park fund. The treasurer shall establish within the state park fund separate and distinct accounts known as the park account and the ski area account. The treasurer shall deposit in said accounts actual revenue derived by the commissioner of the department of resources and economic development in excess of budget expenses from fees, services, accommodations, rentals, revenue from lift and tramway operations, retail sales, and net profit from concession operations, and including any federal moneys which become available, and all donations and gifts. The accounts shall be continuing and nonlapsing.

Amend the bill by inserting after section 7 the following new section and renumbering the original sections 8-12 to read as 9-13, respectively:

8 New Section; Debt Service for Cannon Tramway. Amend RSA 216-A by inserting after section 3-i the following new section:

216-A:3-j Debt Service for Cannon Tramway. Effective July 1, 1996, debt service for the Cannon Tramway shall be a charge against the state park fund, ski area account.

Amend the bill by replacing all after section 12 with the following:

13 Legislative Review of State Ski Operations. Five years after the effective date of this act, the legislature shall review the operation of the state owned ski areas.

14 Effective Date. This act shall take effect upon its passage.

Conferees on the

Part of the Senate

Sen. Currier, Dist. 7

Sen. F. King, Dist. 1

Sen. Pignatelli, Dist. 13

Conferees on the

Part of the House

Rep. W. Williams, Graf. 3

Rep. Scanlan, Graf. 11

Rep. Schotanus, Sull. 3

Rep. Merritt, Straf. 8

AMENDED ANALYSIS

This bill:

(1) Abolishes the position of the director of state ski operations.

(2) Transfers the duties of the director of state ski operations to the director of parks and recreation.

(3) Establishes a park account and a ski area account in the state park fund.

(4) Requires any general fund unrestricted revenue generated from ski area operations that are in excess of actual expenditures for the division of ski operations for the fiscal year ending June 30, 1996 to be deposited into the ski area account.

(5) Requires the debt service for the Cannon Tramway to be a charge against the park fund, ski area account in July 1996.

SENATOR CURRIER: What was at issue here was the debt service coming out of the general fund that was going to tap the general fund for \$330,000. When we reviewed it in specifics, actually the revenues from ski areas go into the general fund now. So we are changing section eight and setting up an actual fund, it would have remained in the general fund. So what we are basically doing is, we are going to set up the special fund and out of the special fund, the debt service for the Cannon Tramway will be coming out of it. I believe that it is the lapses or overages or something in terms of the revenues that were left over expenses for this years operation will be put into that special park fund so that the park fund will actually have, not a reserve, but actual start-up money, so that on July 1 that fund will actually have money that they will be able to operate on. That amount of money is estimated to be approximately \$225,000 which is the overage from the revenues less expenses from this biennium. There is agreement on the part of all parties and the commissioner of the department was involved, and once the final drafting is completed, it will be before you here on the floor.

Senator Currier moved concurrence.

Adopted.

6106

Enrolled Bill Amendment to SB 511

Amend RSA 357-C:3, III(o) as inserted by section 1 of the bill by replacing line 1 with the following:

(o) Change the relevant market area set forth in the franchise

Amend RSA 357-C:12, IV as inserted by section 8 of the bill by replacing lines 5-7 with the following:

but no later than 45 days after the filing of the protest, the board shall require the parties to the proceeding to attend a prehearing conference where the chairperson or designee shall have the parties address the

Amend section 10 of the bill by replacing line 2 with the following: enforcement of RSA 357-C by the department of justice, is repealed.

Senator Currier moved adoption.

Adopted.

6107

Enrolled Bill Amendment to SB 524

Amend RSA 464-A:35, I as inserted by section 3 of the bill by replacing line 2 with the following:

[biennially] under oath with the [probate] court [where the

Amend RSA 563-B:2, I as inserted by section 12 of the bill by replacing line 7 with the following:

property or interest has become finally ascertained and the taker's interest is

Amend RSA 563-B:7 as inserted by section 12 of the bill by replacing it with the following:

563-B:7 Application. An interest in property that exists on January 1, 1997, as to which, if a present interest, the time for delivering a disclaimer under this chapter, has not expired or, if a future interest, the interest has not become indefeasibly vested or the taker finally ascertained, may be disclaimed within 9 months after January 1, 1997.

Amend paragraph I of section 15 of the bill by replacing it with the following:

I. Sections 13-14 of this act shall take effect July 1, 1996.

Senator Currier moved adoption.

Adopted.

6114

Enrolled Bill Amendment to SB 532

Amend the bill by replacing section 12 with the following:

12 New Paragraphs; Rulemaking. Amend RSA 485-C:4 by inserting after paragraph VII the following new paragraphs:

VIII. Criteria and procedures for the investigation, management, and remediation of contaminated groundwater, including the creation of regulated zones of contaminated groundwater and the issuance of permits or similar procedures for the remediation of such zones.

IX. Criteria and procedures for the notification of owners of affected properties and for the recordation of permits governing groundwater management zones designated by the department in the registry of deeds for affected properties.

X. Criteria and procedures for the imposition of groundwater use restrictions relative to groundwater management zones.

XI. Criteria and procedures for accepting adopted municipal land use controls in lieu of recordation requirements.

13 New Sections; Groundwater Management Zones. Amend RSA 485-C by inserting after section 6 the following new sections:

485-C:6-a Groundwater Management Zones. The department may designate groundwater management zones as a component of the remediation of contaminated groundwater. The department shall issue permits or other similar controls for such zones that establish a time period and process for the remediation of the groundwater.

485-C:6-b Recordation of Groundwater Management Zone Permits. The department shall require a person to whom a groundwater management zone permit is issued to record notice of the existence of the groundwater management zone in a form approved by the department. Such notice shall be recorded in the registry of deeds in the chain of title for each property included in whole or part within the groundwater management zone. If the department approves the use of municipal land use controls as an alternative form of notice, such recordation shall not be required.

14 Contingency. If HB 1314 of the 1996 regular session becomes law, sections 12 and 13 of this act shall take effect 60 days after its passage, and sections 3 and 4 of this act shall not take effect. If HB 1314 does not become law, sections 3 and 4 of this act shall take effect 60 days after its passage, and sections 12 and 13 of this act shall not take effect.

15 Effective Date.

I. Sections 6-9 of this act shall take effect upon its passage.

II. Sections 3, 4, 12, and 13 of this act shall take effect as provided in section 14 of this act.

III. The remainder of this act shall take effect 60 days after its passage.
 Senator Currier moved adoption.

Adopted.

6033

Enrolled Bill Amendment to SB 571-LOCAL

Amend RSA 21-N:10, IV as inserted by section 3 of the bill by replacing lines 4-5 with the following:
 welfare of the public schools, and in case of such removal, or of a vacancy arising from any other cause, they shall make another appointment for the unexpired term.

Amend the bill by replacing section 14 with the following:

14 Gender Neutral Language Substitution. Amend RSA 326-F:15, VIII to read as follows:

VIII. At the commencement of an adjudicatory proceeding, or at any time during a formal or informal investigation, and without issuing a subpoena, the board may mail a statement of the issues being investigated or heard to any licensee or other person who is a proper subject of inquiry and require the licensee or other person to provide a detailed and good faith written response to the allegations identified by the board. The licensee or other person shall provide complete copies of [his] *the* office records concerning any patient whose treatment is relevant to the matters at issue. The licensee shall respond to such request within a reasonable time period of not less than 15 days, as the board may specify in its written request.

Senator Currier moved adoption.

Adopted.

6028

Enrolled Bill Amendment to SB 574

Amend section 2 of the bill by replacing line 5 with the following:
 clerk, the house clerk, the state library, the governor, the house and senate education

Senator Currier moved adoption.

Adopted.

6104

Enrolled Bill Amendment to SB 578

Amend the title of the bill by replacing it with the following:

AN ACT
 relative to the interception and disclosure of
 telecommunications or oral communications
 by emergency personnel.

Amend RSA 570-A:2, II(h) as inserted by section 1 of the bill by replacing line 6 with the following:

intercept, record, disclose or use a telecommunication, while engaged in
 Amend RSA 570-A:2, II(a) as inserted by section 4 of the bill by replacing line 3 with the following:

transmission of a telecommunication, to intercept, disclose, or use that
 Amend RSA 570-A:2, II(e) and (f) as inserted by section 5 of the bill by replacing them with the following:

(e) Where the offense under investigation is defined in RSA 318-B, the attorney general may delegate [his] authority under RSA 570-A:2, II(d) to a county attorney. [Said] *The* county attorney may exercise this

authority only in the county where [he] *the county attorney* serves. The attorney general shall, prior to the effective date of this subparagraph, adopt specific guidelines under which the county attorney may give authorization for such interceptions. Any county attorney may further delegate [his] authority under this section to any assistant county attorney in [his] *the county attorney's* office.

(f) An officer, employee, or agent of the Federal Communications Commission, in the normal course of [his] employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of chapter 5 of title 47 of the United States Code, to intercept a telecommunication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.

Senator Currier moved adoption.

Adopted.

6111

Enrolled Bill Amendment to SB 612

Amend the bill by replacing all after section 2 with the following:

3 New Subparagraph; Review Before the Commissioner for DWI Offenders; Final Evaluation. Amend RSA 265:82-b, IV by inserting after subparagraph (b) the following new subparagraph:

(c) "Successful completion" means meeting further counseling requirements, if any, arising out of the final evaluation given to the offender at the I.D.I.P. or the M.O.P. or its equivalent; provided, however, that the offender shall have the right to a hearing before the commissioner or designee, who shall determine whether the further counseling requirements arising out of the final evaluation are warranted and appropriate, and whether the offender should be eligible for license restoration. The definition in this subparagraph shall also apply to RSA 263:65-a, II.

4 Effective Date.

I. Section 3 of this act shall take effect January 1, 1997, at 12:01 a.m.

II. The remainder of this act shall take effect January 1, 1997.

Senator Currier moved adoption.

Adopted.

6029

Enrolled Bill Amendment to SB 613

Amend section 2 of the bill by replacing lines 2 and 3 with the following:

13-e the following new section:

4:13-f New Hampshire Pearl Harbor Day.

Senator Currier moved adoption.

Adopted.

6036

Enrolled Bill Amendment to SB 640

Amend the title of the bill by replacing it with the following:

AN ACT

relative to acquisitions and mergers involving national banks;
relative to branch banking and bank holding company
affiliates; relative to trust activities conducted in
New Hampshire by out-of-state banks and
conducted out-of-state by New Hampshire
banks; and relative to certain
securities exemptions.

Amend section 4 of the bill by replacing line 3 with the following:
384:63-a Trust Activities.

Senator Currier moved adoption.

Adopted.

6055

Enrolled Bill Amendment to SB 647-FN

Amend RSA 179:11, IV as inserted by section 7 of the bill by replacing lines 4 and 5 with the following:
or agent of a *beverage manufacturer licensee, brew pub licensee, beverage vendor or beverage importer [license] licensee* shall have an interest, either

Senator Currier moved adoption.

Adopted.

HOUSE MESSAGES

The House of Representatives has adopted the recommendations of the Committees of Conference to which were referred the following entitled Bills:

HB 151-FN, establishing a special license plate program, including related fees.

HB 281, changing the composition of the board of managers of the veterans' home.

HB 345-L, relative to voluntary payments in lieu of taxes.

HB 417, relative to investments of public funds by trustees.

HB 530-FN, transferring the functions and duties of the director of state ski operations.

HB 610-L, integrating changes in the municipal budget act into the laws relating to towns and school districts.

HB 1025-FN-L, relative to a 10-year transportation plan, relative to the Derry local exit on I-93, and extending the lapse dates for certain capital appropriations to the department of transportation.

HB 1110-FN, relative to the acceptance of gifts of personal property valued at over \$5,000 donated to public libraries.

HB 1134-FN, relative to registration of certain criminal offenders and relative to the registration and fees for semi-trailers.

HB 1156, relative to aircraft landings.

HB 1171-FN, relative to fees for number plates.

HB 1173-FN-L, relative to juvenile court proceedings and victim's rights in the context of delinquency proceedings.

HB 1194, clarifying the definition of tenancy to exclude campgrounds and camping parks recreational vehicles used at motorsport racing facilities and exempting from certain aspects of the laws regulating campgrounds and camping parks.

HB 1285, authorizing sobriety check points in certain situations.

HB 1288, establishing a study committee of pesticide product registration policies.

HB 1289-L, relative to restrictions on waters used as a public water supply, requiring municipal approval for certain water withdrawals and relative to state water pollution control and drinking water revolving loan funds.

HB 1291, relative to vandalism and criminal mischief.

HB 1300, relative to the enforcement of zoning regulations.

HB 1323, establishing a committee to study the issue of the use, and disposal of sludge or septage, and requiring notification to certain persons before the application of sludge or septage.

HB 1331-FN, relative to clarifying certain provisions under the workers' compensation law, and relative to fees for inspection certificates for elevators.

HB 1366, requiring the commissioner of the department of corrections to prepare and publish an annual comprehensive plan for the state's correctional system.

HB 1399, establishing 2 new positions in the department of environmental services to implement the sludge permit system and making appropriations from the balance contained in the sewage disposal system fund.

HB 1436, regulating certain transactions between charitable trusts and directors, officers, and trustees of such charitable trusts.

HB 1442, relative to revenue and expenditures for the biennium ending June 30, 1997.

HB 1450-FN, establishing a study committee on postsecondary educational assistance for members of the New Hampshire national guard.

HB 1515-A, establishing a telecommunications assistance program and appropriating certain funds for initial costs of such program.

HB 1539-FN-L, relative to fees for group dog licenses and making a technical correction.

HB 1541, relative to employee leasing companies and temporary help services.

HB 1545, recognizing the validity of faxed search and arrest warrants and domestic violence orders.

HB 1546, promoting boating safety awareness, limiting the use of the public boat launch at Wellington State park in the town of Bristol, and naming the new park and ride in Plaistow the "Michael C. Weston Memorial Park and Ride."

HB 1550, relative to a lobster management plan and relative to lobster and crab licenses.

HB 1555-FN-A, authorizing the commissioner of the department of environmental services to impose administrative fines for certain environmental violations and continually appropriating certain fine revenues.

HB 1564-FN, relative to the review panel for dispositional orders on delinquency cases.

HB 1572-L, recodifying and revising the solid waste laws.

HB 1576-FN, relative to extended detoxification of pregnant and post-partum heroin addicts utilizing the controlled drug methadone.

HB 1593-FN, establishing a house committee to study the state investigation of the late John C. Fairbanks.

HB 1597, changing the wetlands board to the wetlands council.

HB 1610-FN-L, establishing a local education improvement assistance program and making an appropriation therefor, and allowing school districts to withdraw from school administrative units and authorizing school districts to assume SAU responsibilities.

HB 1619-A, authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River, authorizing the department of health and human services to reroof 4 buildings, extending the lapse date on the Plaistow district court design, refunding bonds and credit arrangements for state notes, relative to disaster assistance and making an appropriation therefor, and relative to the Pease Development Authority and the Manchester airport.

HB 1620, relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas, authorizing the services of a consultant to develop a prototype lease and making an appropriation therefor.

HB 1621, authorizing the executive director of the fish and game department to conduct wildlife population reductions on Long Island in the town of Moultonboro.

HB 1631, relative to felonious use of body armor.

HB 1633-FN-L, relative to solid waste management.

SB 659, allowing self-employed persons or business owners who have paid into the unemployment compensation fund to collect benefits.

SB 656-FN, expanding drug-free school zones to include Head Start facilities.

SB 646-FN, establishing a committee to study alternative sentencing for persons convicted of drug-related offenses and nonviolent crimes.

SB 635-FN, relative to cost of living adjustments for retired firefighters.

SB 633-FN-A, relative to victim restitution and compensation.

SB 625, relative to insurance fraud.

SB 623, to provide an optional retirement program for employees of the department of regional community-technical colleges.

SB 615, relative to property left behind by tenants and relative to damage deposits for pets.

SB 610, relative to municipal water, gas and electric utilities.

SB 599, providing that school nurses shall be authorized to possess and administer certain drugs for disease prevention and emergency treatment, setting forth the duties of school nurses in the control and prevention of communicable disease, and requiring an education and monitoring component for regulating medication administration in a hospice house.

SB 594, prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency and relative to the polling place and to special meetings under the official ballot option.

SB 580, relative to liquor licensees.

SB 573, relative to the issuance by courts of telephonic emergency temporary orders.

SB 560, relative to utilization review programs.

SB 559-FN-L, declaring proposed public collective bargaining agreements to be public records subject to inspection.

SB 547-FN-A, requiring the department of safety services, division of safety services, to publish the New Hampshire boaters guide and making an appropriation therefor.

SB 545, relative to the powers of city councils.

SB 517-L, relative to a property tax exemption for real estate used as rental housing by certain nonprofit charitable organizations and relative to assessments against owners of property in central business districts.

SB 11-L, relative to the application of local land use regulations to governmental units.

RESOLUTION

Senator Barnes moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, all titles be the same as adopted and that they be passed at the present time; and that we recess for the sole purpose of receiving enrolled bill reports, enrolled bill amendments and House messages, and that when we adjourn, we adjourn to the Call of the Chair.

Adopted.

LATE SESSION ANNOUNCEMENTS

Senator Barnes moved that the business of the day being completed, that we be in recess, and that when we adjourn, we adjourn to the Call of the Chair.

Adopted.

In recess.

Out of Recess.

LATE SESSION

6119

Enrolled Bill Amendment to SB 600-FN

Amend the title of the bill by replacing it with the following:

AN ACT
clarifying the authority of the department of
environmental services to issue
facility-wide permits for
sources not subject
to Title V.

Amend section 1 of the bill by replacing lines 2 and 3 with the following:

by inserting after paragraph IX the following new paragraph:

IX-a. "Non-Title V Source," any stationary source other than an

Amend the bill by replacing all after section 8 with the following:

9 References to Non-Title V Source Added. Amend RSA 125-C:15, I to read as follows:

I. Whenever the director or the director's authorized representative finds that any device [or], **non-Title V source, or** affected source of air pollution has resulted in a violation of any of the provisions of this chap-

ter or any rules in force hereunder, or any condition in a permit issued under this chapter, the director shall issue a notice of violation and, where appropriate, an order of abatement establishing a compliance schedule with which [said] *the device* [or], *non-Title V source*, or affected source shall comply. Any order of abatement shall become final and enforceable by the director within 30 days of its issuance unless an appeal is filed with the air resources council before the expiration of said 30-day period. The council shall hold a hearing on any such appeal promptly, and shall thereafter issue a decision upholding, modifying, or abrogating the director's order of abatement or any part thereof. The council's decision shall become final 10 days after it is issued. Upon a finding by the director that there is an imminent and substantial endangerment to the public health or welfare or the environment, the director shall issue an order of abatement requiring immediate compliance and said order shall be final and enforceable upon issuance, but may be appealed to the council within 30 days of its issuance, and the council may, after hearing, uphold, modify, or abrogate said order.

10 New Paragraph; Non-Title Source; Definition Added. Amend RSA 125-C:2 by inserting after paragraph IX the following new paragraph:

IX-a. "Non-Title V Source," any stationary source other than an affected source which, in the opinion of the commissioner, contributes or may contribute to the pollution of the air.

11 Permit Required for Non-Title V Sources. Amend RSA 125-C:11, I to read as follows:

I. The construction, installation, operation, or material modification of any device *or non-Title V source* as defined under RSA 125-C:2, and as further defined by rules adopted by the commissioner shall be prohibited unless the source possesses a temporary permit or final permit issued by the commissioner. The commissioner may by rule exempt certain devices *or non-Title V sources* from the requirements of this section.

12 Temporary Permit; Non-Title V Source. Amend RSA 125-C:11, II and III to read as follows:

II. A temporary permit, which may contain conditions, shall be required prior to commencement of construction or installation of any new or modified device *or non-Title V source*, and shall be in effect until a final permit is issued or until sooner revoked by the commissioner. Such permit shall contain the emission limits the device *or non-Title V source* is required to meet, and shall be issued by the commissioner upon a finding that the device *or non-Title V source* will meet such limits and will not result in a violation of any air quality standard or regulation in force under this chapter.

III. A final permit, which may contain conditions, shall be issued with respect to a device *or non-Title V source* for which a temporary permit is in effect, upon a finding by the commissioner, following operational testing, where required, that the device *or non-Title V source* meets the applicable emission limits and that its operation will not result in a violation of any air quality standard or regulation in force under this chapter.

13 Reference to Non-Title V Source Added. Amend RSA 125-C:12, I to read as follows:

I. Applications for permits shall be upon such forms, and shall include such information, as the commissioner requires *under rules adopted pursuant to RSA 541-A* in order to determine the nature of the air pollution potential for such device *or non-Title V source*.

14 References to Non-Title V Source Added. Amend RSA 125-C:13, I-III to read as follows:

I. The commissioner shall deny an application for a temporary or final permit if, on the basis of evidence available to [him] *the commissioner*, [he] *the commissioner* determines:

(a) That the device *or non-Title V source* for which the permit is sought will result in a violation of any standard or rule in force under this chapter; or

(b) That the device *or non-Title V source* will contribute disproportionately to pollution of the air in comparison with other similar [devices] *sources* able to perform the same function that are currently available; or

(c) That the device *or non-Title V source* is located in a "clean air" area designated by state or federal rules or regulations and will or is reasonably likely to cause significant deterioration of the existing air quality in a part of the area.

II. The commissioner may suspend or revoke any temporary or final permit issued hereunder if, following a hearing, the commissioner determines:

(a) That the permit holder has committed a violation of this chapter or any rule, order or permit conditions in force and applicable to it; or

(b) That emissions from the device *or non-Title V source* to which the permit applies, alone or in conjunction with other sources of the same pollutants, presents an immediate danger to the public health.

III. The commissioner may order modification of any source of air pollution holding a valid permit issued under this chapter in the event that [he] *the commissioner* determines, following a hearing:

(a) That the device *or non-Title V source* to which the permit applies fails to meet existing emission limits established by state or federal rule or regulation;

(b) That the device *or non-Title V source* is resulting or is reasonably likely to result in a violation of an air quality standard in force.

15 References to Non-Title V Source Added. Amend RSA 125-C:15, I to read as follows:

I. Whenever the commissioner or the commissioner's authorized representative finds that any device [or], *non-Title V source, or affected source* of air pollution has resulted in a violation of any of the provisions of this chapter or any rules in force hereunder, or any condition in a permit issued under this chapter, the commissioner shall issue a notice of violation and, where appropriate, an order of abatement establishing a compliance schedule with which [said] *the device [or], non-Title V source, or affected source* shall comply. Any order of abatement shall become final and enforceable by the commissioner within 30 days of its issuance unless an appeal is filed with the air resources council before the expiration of said 30-day period. The council shall hold a hearing on any such appeal promptly, and shall thereafter issue a decision upholding, modifying or abrogating the commissioner's order of abatement or any part thereof. The council's decision shall become final 10 days after it is issued. Upon a finding by the commissioner that there is an imminent and substantial endangerment to the public health or welfare or the environment, the commissioner shall issue an order of abatement requiring immediate compliance and said order shall be final and enforceable upon issuance, but may be appealed to the council within 30 days of its issuance, and the council may, after hearing, uphold, modify, or abrogate said order.

16 Contingency. If HB 1314 of the 1996 regular session becomes law, sections 10-15 of this act shall take effect 60 days after its passage and sections 1 and 5-9 of this act shall not take effect. If HB 1314 does not become law, sections 10-15 of this act shall not take effect and sections 1 and 5-9 of this act shall take effect 60 days after its passage.

17 Effective Date.

I. Sections 1 and 5-15 of this act shall take effect as provided in section 16 of this act.

II. The remainder of this act shall take effect 60 days after its passage.

Senator Currier moved adoption.

Adopted.

6118

Enrolled Bill Amendment to SB 666-FN-A

Amend section 23 of the bill by replacing line 1 with the following:

23 Refunds. Amend RSA 260:47 to read as follows:

Amend RSA 260:48, II as inserted by section 24 of the bill by replacing line 3 with the following:

and shall be made semi-annually within 90 days after June 30 and December 31,

Amend RSA 260:54-a as inserted by section 32 of the bill by replacing line 9 with the following:

[such] *the* user may appear and show cause why [his] *the* license

Amend section 37 of the bill by replacing lines 6-8 with the following: known as the regional fuel tax agreement]. The commissioner may adopt[, pursuant to the provisions of RSA 541-A,] such rules as are necessary to enforce the terms of this agreement, which shall *be exempt from the provisions of RSA 541-A and shall* have the effect of

Amend section 40 of the bill by replacing line 1 with the following:

40 Construction. Sections 36-39 and paragraph XI of section 41 of this

Senator Currier moved adoption.

Adopted.

6127

Enrolled Bill Amendment to HB 1436

Amend the title of the bill by replacing it with the following:

AN ACT

regulating certain transactions between charitable trusts and directors, officers, and trustees of such charitable trusts and establishing a committee to study the laws relative to charitable trusts.

Amend section 7 of the bill by replacing line 1 with the following:

7 Mileage; Report. Members shall receive mileage at the legislative rate for

Senator Currier moved adoption.

Adopted.

6125

Enrolled Bill Amendment to HB 1571

Amend the bill by replacing section 2 with the following:

2 Reference Changed; Contingent or Enactment of Both HB 1597 and HB 1314. Amend RSA 482-A:3, XII(a) to read as follows:

XII.(a) Persons who construct and maintain recreational trails in accordance with the [Trail Administrators Manual] ***Best Management Practices for Erosion Control During Trail Maintenance and Construction*** published by the department of resources and economic development and who have filed an appropriate notice, as described in subparagraph (b), to construct or maintain such trails with the [division] ***department*** and the department of resources and economic development shall have satisfied the permitting requirements of this section for minimum impact activities, as defined by rules adopted by the commissioner.

3 Reference Changed; Contingent on Enactment of Only HB 1597. Amend RSA 482-A:3, XII(a) to read as follows:

XII.(a) Persons who construct and maintain recreational trails in accordance with the [Trail Administrators Manual] ***Best Management Practices for Erosion Control During Trail Maintenance and Construction*** published by the department of resources and economic development and who have filed an appropriate notice, as described in subparagraph (b), to construct or maintain such trails with the division and the department of resources and economic development shall have satisfied the permitting requirements of this section for minimum impact activities, as defined by rules adopted by the commissioner.

4 Contingency.

I. If HB 1597 and HB 1314 of the 1996 regular session become law, section 2 of the act shall take effect at 12:01 a.m. on the effective date of HB 1597, and sections 1 and 3 of this act shall not take effect. If HB 1597 and HB 1314 do not take effect, section 1 of this act shall take effect 60 days after its passage and sections 2 and 3 of this act shall not take effect.

II. If HB 1597 becomes law and HB 1314 does not become law, section 3 of this act shall take effect at 12:01 a.m. on the effective date of HB 1597, and sections 1 and 2 of this act shall not take effect.

III. If HB 1314 becomes law and HB 1597 does not become law, section 1 of this act shall take effect 60 days after its passage, and sections 2 and 3 of this act shall not take effect.

5 Effective Date.

I. Sections 1-3 of this act shall take effect as provided in section 4 of this act.

II. The remainder of this act shall take effect 60 days after its passage.

Senator Currier moved adoption.

Adopted.

6121

Enrolled Bill Amendment to HB 1203-LOCAL

Amend the bill by replacing section 14 with the following:

14 Gender Neutral Language Substitution. Amend RSA 195:4, III to read as follows:

III. CHECKLISTS. At the meetings held in the preexisting districts for the purpose of accepting the articles of agreement, or any existing arrangements, and at the organization meeting of the cooperative school district the checklists for each preexisting district shall be used. The school board of any preexisting district which does not have a checklist shall make, post and correct a list of the legal voters in the district for use at such meetings as supervisors are required to do in regard to the

list of voters in their towns. Thereafter the cooperative school board shall make, post and correct a list of the legal voters of the cooperative school district acting as supervisors are required to do, except that such list shall indicate with respect to each voter the preexisting district in which [he] **the voter** resides. Any 2 members of the cooperative school board shall constitute a quorum at sessions for the correction of the checklist. Notwithstanding the foregoing provisions whenever each of the preexisting school districts is coextensive with the town in which it is located the cooperative school district may, at an annual cooperative school district meeting, under an article in the warrant for such meeting, vote that the supervisors of each town, acting as the supervisors of the cooperative school district, shall make, post and correct in each preexisting district a checklist of the voters in each preexisting district and shall certify [to the same] **the making, posting, and correction of the checklist** acting as supervisors of the cooperative school district. At each annual meeting for the election of officers of the cooperative district the checklists prepared by the supervisors in each preexisting district in accordance with the provisions of this paragraph shall be used and the town supervisors from each preexisting district shall attend [said] **such** annual meeting. The voters of the cooperative district shall be those whose names appear on the checklists as provided by this paragraph. The supervisors shall be paid such compensation as the district may provide.

15 Cooperative School Districts; Certain Home Educated Pupils Excluded in Apportionment Formulas. Amend RSA 195:7 to read as follows:
195:7 Costs of Capital Outlay and Operation.

I. If a cooperative school district was organized prior to July 1, 1963, during the first 5 years after the formation of a cooperative school district each preexisting district shall pay its share of all capital outlay costs and operational costs in accordance with either one of the following formulas as determined by a majority vote of the cooperative district meeting:

[I.](a) All such costs shall be apportioned on the basis of the ratio that the equalized valuation of each preexisting district bears to that of the cooperative district; or

[II.](b) One-half of all such costs shall be apportioned on the basis of the ratio that the equalized valuation of each preexisting district bears to that of the cooperative district and 1/2 shall be apportioned on the average daily membership for the preceding year.

[III.](c) Some other formula offered by the cooperative school board with the board's recommendation, adopted by the cooperative school district and approved by the state board of education.

II. Home education pupils who do not receive services from the cooperative school district, except an evaluation pursuant to RSA 193-A:6, II, shall not be included in the average daily membership relative to apportionment formulas.

16 Cross Reference Changed. Amend RSA 195:8 to read as follows:

195:8 Five-Year Period Reconsideration. If a cooperative school district was organized prior to July 1, 1963, after the expiration of the first 5-year period measured from the date of the first annual meeting and after the expiration of each subsequent 5-year period measured from the date of the last change [thereto] **to the cost apportionment under RSA 195:7**, the basis for the apportionment of all such costs may be subject to review, pursuant to an article for that purpose duly inserted in the

warrant for a district meeting [and]. The cooperative school district may then by majority vote elect to apportion all such costs by the adoption of [either formula I, II or III, as defined in RSA 195:7] **one of the formulas set forth in RSA 195:7, I(a), (b), or (c)**. Such apportionment may be reviewed in the same manner at any time in order to permit the membership of a school district or a increase in the number of grades for which the district shall be responsible.

17 Gender Neutral Language Substitution. Amend RSA 195:12-a, I to read as follows:

I. A cooperative school district at an annual meeting, under a proper article in the warrant, may vote to establish a budget committee pursuant to RSA 32:14 and may rescind such action in a like manner. The budget committee shall have the same number of members as the cooperative district school board plus one additional member from the school board as [hereinafter] provided in this paragraph. The terms of office and manner of election of members shall be determined in the same manner as for the cooperative school board. Whenever it is voted to establish a budget committee, the moderator in the first instance shall appoint the members [thereof] **of the budget committee**, except for the additional member appointed from the school board, within 15 days of the vote establishing the committee. The members appointed by the moderator shall serve until the next annual meeting when the meeting shall elect their successors. No member of the cooperative school board shall be appointed or elected to the budget committee except that the [chairman] **chairperson** of the cooperative school board shall appoint a member of the board to serve on the budget committee with all the powers and duties of any other member of the committee. After appointment or election the budget committee shall promptly organize and choose a [chairman] **chairperson**, [vice chairman] **vice-chairperson**, and secretary. The secretary shall keep records of the proceedings of the budget committee, which shall be public records open to public inspection.

18 Gender Neutral Language Substitution. Amend RSA 195:18, I to read as follows:

I.(a) Any school district pursuant to an article in the warrant for any annual or special meeting may vote to create a cooperative school district planning committee consisting of 3 qualified voters of whom at least one shall be a member of the school board. The members of the committee shall be elected at the meeting at which the committee is created, unless the district determines that they shall be appointed by the moderator. The members of the committee shall serve without pay for a term ending (1) at the third annual meeting of the district following the creation of the committee, if the committee is created at an annual meeting, or (2) at the first annual meeting of the district next following the expiration of 3 years from the date of the creation of the committee, if the committee is created at a special meeting, or (3) upon the final adjournment of the organization meeting of any cooperative school district of which the district becomes a part. If the term of the committee ends at an annual meeting of the district, the district may create a successor cooperative school district planning committee pursuant to the foregoing provisions. Vacancies on the committee shall be filled by the moderator for the balance of the unexpired term. The district may appropriate money to meet the expenses of the committee at the meeting at which it

is created or at any subsequent district meeting notwithstanding the provisions of RSA 32 or RSA 197:3, and such expenses may include the cost of publication and distribution of reports. Cooperative school district planning committees from any 2 or more school districts may join together to form a cooperative school district planning board which shall organize by the election of a [chairman] **chairperson** and a clerk-treasurer. The planning board may thereafter admit to membership planning committees from other school districts, but the members of a planning committee shall not be members of more than one planning board at any one time. A cooperative school district planning board shall act by a majority vote of its total membership.

(b) Any school district which votes at any annual or special district meeting to create a cooperative school district planning committee under RSA 195:18 shall elect the members of such committee as provided in RSA 195:18.

19 Contingency.

I. If HB 175-FN of the 1996 regular session becomes law, sections 14-18 of this act shall take effect 60 days after its passage and sections 2, 5, 6, 8, and 10 of this act shall not take effect. If HB 175-FN does not become law, sections 2, 5, 6, 8, and 10 of this act shall take effect 60 days after its passage and sections 14-18 of this act shall not take effect.

II. If HB 175-FN becomes law, section 3 of this act shall not take effect. If HB 175-FN does not become law, section 3 of this act shall take effect 60 days after its passage.

20 Effective Date.

I. Sections 2, 3, 5, 6, 8, 10, and 14-18 of this act shall take effect as provided in section 19 of this act.

II. The remainder of this act shall take effect 60 days after its passage.

Senator Currier moved adoption.

Adopted.

6120

Enrolled Bill Amendment to HB 1536-FN-A-LOCAL

Amend section 2 of the bill by replacing lines 2 and 3 with the following:

chapter 147-E the following new chapter:

CHAPTER 147-F

Amend RSA 147-E:1, II as inserted by section 2 of the bill by replacing line 1 with the following:

II. The purpose of this chapter is to give incentives to parties

Amend RSA 147-E:2 as inserted by section 2 of the bill by replacing line 8 with the following:
accordance with RSA 147-F:6.

Amend RSA 147-E:3, II as inserted by section 2 of the bill by replacing line 2 with the following:

contaminated, subject to the limitations of RSA 147-F:4, II.

Amend RSA 147-E:3, V as inserted by section 2 of the bill by replacing line 2 with the following:

RSA 147-F:4, I, and who qualifies for a covenant not to sue.

Amend RSA 147-E:5, I as inserted by section 2 of the bill by replacing it with the following:

I. Any person who meets the eligibility conditions of RSA 147-F:4 may request the assistance of the department in overseeing the investigation and remediation of an eligible property. An eligible person shall be entitled to the liability protections provided in RSA 147-F:7 and shall receive a covenant not to sue issued in accordance with RSA 147-F:6 upon approval of a remedial action plan for the property.

Amend RSA 147-E:5, II as inserted by section 2 of the bill by replacing line 3 with the following:
conditions of RSA 147-F:17.

Amend RSA 147-E:5, IV as inserted by section 2 of the bill by replacing line 4 with the following:

shall not be subject to suit described in RSA 147-F:6, I, by the state for

Amend RSA 147-E:5, V as inserted by section 2 of the bill by replacing line 2 with the following:

process provided in RSA 147-F:11 through RSA 147-F:16 at the discretion of

Amend RSA 147-E:6, I as inserted by section 2 of the bill by replacing line 3 with the following:

modifications made pursuant to RSA 147-F:13, II.

Amend RSA 147-E:6, II as inserted by section 2 of the bill by replacing line 7 with the following:

RSA 147-F:15, IV. The covenant shall be expressly conditioned upon the

Amend RSA 147-E:6, III(a)(2)-(4) as inserted by section 2 of the bill by replacing them with the following:

(2) Withdraws from the program before completion of the remedial action plan and fails to stabilize the property in accordance with RSA 147-F:8;

(3) Violates any use restrictions imposed on the property by the department in accordance with RSA 147-F:15; or

(4) Fails to comply with program requirements under RSA 147-F:16.

Amend RSA 147-E:6, IV as inserted by section 2 of the bill by replacing line 2 with the following:

obtained a determination of eligibility under RSA 147-F:4 or any approval

Amend RSA 147-E:6, VI(a) as inserted by section 2 of the bill by replacing line 2 with the following:

accordance with RSA 147-F:13, III, the covenant not to sue shall be

Amend RSA 147-E:7, II as inserted by section 2 of the bill by replacing line 5 with the following:

reckless conduct, except as provided in RSA 147-F:8, I(b).

Amend the introductory paragraph of RSA 147-E:7, III as inserted by section 2 of the bill by replacing line 2 with the following:

stabilization as provided in RSA 147-F:8 shall not be strictly liable as an

Amend RSA 147-E:7, III(b) as inserted by section 2 of the bill by replacing line 2 with the following:

department in accordance with RSA 147-F:15, and fails to cure after notice;

Amend RSA 147-E:7, III(d) as inserted by section 2 of the bill by replacing line 1 with the following:

(d) Fails to comply with the requirements of RSA 147-F:16, and

Amend RSA 147-E:9, I as inserted by section 2 of the bill by replacing line 6 with the following:

requires in accordance with rules adopted under RSA 147-F:18.

Amend RSA 147-E:9, II(d) as inserted by section 2 of the bill by replacing line 2 with the following:
determination of eligibility in accordance with RSA 147-F:4.

Amend RSA 147-E:9, II(f)(5) as inserted by section 2 of the bill by replacing line 5 with the following:

pursuant to RSA 147-F:8; and acknowledges that it may be appropriate

Amend RSA 147-E:10, I as inserted by section 2 of the bill by replacing line 3 with the following:

RSA 147-F:4 after review and approval by the department of justice. The

Amend RSA 147-E:11, I as inserted by section 2 of the bill by replacing line 2 with the following:

covenant not to sue pursuant to RSA 147-F:4, and any other person who

Amend RSA 147-E:11, I as inserted by section 2 of the bill by replacing line 8 with the following:

rules adopted pursuant to RSA 147-F:18. The purpose of the site

Amend RSA 147-E:11, II as inserted by section 2 of the bill by replacing line 2 with the following:

investigation work plan in accordance with RSA 147-F:14, II. Upon

Amend the introductory paragraph of RSA 147-E:11, V as inserted by section 2 of the bill by replacing line 6 with the following:

RSA 147-F:18. The site investigation report shall at a minimum:

Amend RSA 147-E:11, VII(a) as inserted by section 2 of the bill by replacing line 2 with the following:

pursuant to RSA 147-F:18.

Amend RSA 147-E:12, II as inserted by section 2 of the bill by replacing line 6 with the following:

accordance with RSA 147-F:13, III.

Amend RSA 147-E:12, III as inserted by section 2 of the bill by replacing line 2 with the following:

standards based upon risk assessments developed pursuant to RSA 147-F:11,

Amend RSA 147-E:12, V(b) as inserted by section 2 of the bill by replacing lines 3 and 4 with the following:

RSA 147-F:4. The covenant not to sue shall be in a form and subject to the conditions set forth in RSA 147-F:6.

Amend RSA 147-E:13, VI as inserted by section 2 of the bill by replacing line 4 with the following:

to RSA 147-F:15, the department shall issue to the program participant, in

Amend RSA 147-E:14, I as inserted by section 2 of the bill by replacing line 3 with the following:

RSA 147-F:4 shall pay a nonrefundable application fee of \$500 for program

Amend RSA 147-E:14, II as inserted by section 2 of the bill by replacing line 3 with the following:

fee, or any person who becomes a program participant under RSA 147-F:5, V,

Amend RSA 147-E:14, III as inserted by section 2 of the bill by replacing line 2 with the following:

RSA 147-F:14, II, shall be charged bi-monthly to the program participant at

Amend RSA 147-E:14, III as inserted by section 2 of the bill by replacing line 6 with the following:

cleanup fund and used for the purposes of RSA 147-F.

Amend RSA 147-E:15, III as inserted by section 2 of the bill by replacing line 3 with the following:
with RSA 147-F:12, V(a).

Amend RSA 147-E:15, IV as inserted by section 2 of the bill by replacing line 16 with the following:

shall comply with the public participation requirements of RSA 147-F:12,

Amend RSA 147-E:16, I(a) as inserted by section 2 of the bill by replacing line 2 with the following:

RSA 147-F:8, I(b) before withdrawal from the program.

Amend RSA 147-E:17, I as inserted by section 2 of the bill by replacing lines 4 and 5 with the following:

after receiving an eligibility determination under RSA 147-F:10 and paying the program fee under RSA 147-F:14.

Amend the introductory paragraph of RSA 147-E:17, III as inserted by section 2 of the bill by replacing line 3 with the following:

with RSA 147-F:13, the successor owner, after receipt of an eligibility

Amend RSA 147-E:17, III(c) as inserted by section 2 of the bill by replacing it with the following:

(c) Receive a covenant not to sue in accordance with RSA 147-F:6.

Amend RSA 147-E:17, IV as inserted by section 2 of the bill by replacing line 2 with the following:

completion in accordance with RSA 147-F:13, the successor owner shall enjoy

Amend RSA 147-E:18, I(i) as inserted by section 2 of the bill by replacing line 3 with the following:

\$3,000 fee and obtaining reimbursement in accordance with RSA 147-F:14.

Amend RSA 147-E as inserted by section 2 of the bill by renumbering sections 147-E:1 - 147-E:19 to read as 147-F:1 - 147-F:19, respectively.

Amend section 7 of the bill by replacing lines 3-5 with the following:

I-e. Fees collected in accordance with RSA 147-F:14 and deposited into the hazardous waste cleanup fund shall be accounted separately and used in funding the operations and staff positions in RSA 147-F, the

Senator Carrier moved adoption.

Adopted.

6129

Enrolled Bill Amendment to HB 1291

1 Amend section 2 of the bill by replacing lines 1 and 2 with the following:

2 Criminal Mischief Definition Revised. Amend RSA 634:2, I and II to read as follows:

Amend RSA 634:2, II(c) as inserted by section 2 of the bill by replacing it with the following:

(c) Discharge of a firearm at an occupied structure, as defined in RSA 635:1, III[.]; **or**

Amend RSA 634:2, II-a as inserted by section 2 of the bill by deleting it.

Senator Carrier moved adoption.

Adopted.

6140

Enrolled Bill Amendment to HB 530-FN

Amend the title of the bill by replacing it with the following:

AN ACT

abolishing the position of the director of state ski operations and transferring the director's duties, and relative to state ski operations revenue.

Amend the introductory paragraph of RSA 216-A:3-g as inserted by section 6 of the bill by replacing lines 4-5 with the following: state park system. The fees approved by the commissioner [and], after prior approval of the fiscal committee, shall not be subject to the provisions of

Senator Currier moved adoption.

Adopted.

6132

Enrolled Bill Amendment to HB 1194

Amend the title of the bill to read as follows:

AN ACT

exempting motorsport events from certain aspects of the laws regulating campgrounds and camping parks.

Senator Currier moved adoption.

Adopted.

6130

Enrolled Bill Amendment to HB 1288

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a study committee on pesticide product registration policies.

Senator Currier moved adoption.

Adopted.

6135

Enrolled Bill Amendment to HB 1289-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to restrictions on waters used as a public water supply, requiring notification to municipalities for certain water withdrawals, and relative to state water pollution control and drinking water revolving loan funds.

Amend RSA 481:13-a as inserted by section 3 of the bill by replacing line 6 with the following:

municipality in which the well is located. This section shall apply

Senator Currier moved adoption.

Adopted.

6133

Enrolled Bill Amendment to HB 1442

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the term of the commissioner of administrative services and relative to revenue and expenditures for the biennium ending June 30, 1997.

Senator Currier moved adoption.

Adopted.

6137

Enrolled Bill Amendment to HB 1564-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to procedures in hearings of juvenile cases and relative to termination of the guardianship of a minor.

Amend the section heading of RSA 169-B:15-b as inserted by section 1 of the bill by replacing it with the following:

169-B:15-b Notification of Right to Request Records.

Amend the section heading of RSA 169-D:13-a as inserted by section 5 of the bill by replacing it with the following:

169-D:13-a Notification of Right to Request Records.

Amend section 9 of the bill by replacing line 7 with the following:

the indigent defense fund. [Representation shall include counsel and investigative, expert and other services, including process to compel the attendance of witnesses, as may be necessary to protect the rights of the child.]

Senator Currier moved adoption.

Adopted.

Recess.

Out of recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1285, authorizing sobriety check points in certain situations.

HB 151, establishing a special license plate program, including related fees.

HB 345, relative to voluntary payments in lieu of taxes.

HB 1156, relative to aircraft landings.

HB 1436, regulating certain transactions between charitable trusts and directors, officers, and trustees of such charitable trusts and establishing a committee to study the laws relative to charitable trusts.

HB 1593, establishing a house committee to study the state investigation of the late John C. Fairbanks.

SB 560, relative to utilization review programs.

SB 666, relative to the administration of motor vehicle laws pertaining to road tolls, and to a multi-jurisdictional fuel tax agreement.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 547, establishing a deferred compensation plan for volunteer firefighters.

HB 580, allowing the formation of and regulating limited liability partnerships, providing for registration fees, and relative to the application of the real estate transfer tax.

HB 606, including certain welfare recipients in the definition of public employee under the workers' compensation law.

HB 1155, relative to the terms for alternate members of zoning boards of adjustment.

HB 1303, relative to the rulemaking authority of the commissioner of transportation, removing a requirement for a written agreement for reimbursement for certain planning and design work performed by the division of public works, and revising the definition of "aircraft."

HB 1314, reorganizing the department of environmental services.

HB 1325, relative to the emissions reduction trading programs and establishing a voluntary pilot program on enhanced environmental performance agreements.

HB 1446, establishing the New Hampshire board of hearing care providers, requiring audiologists to be licensed, and establishing certain fees.

HB 1485, prohibiting insurance companies from mandating that automobile repairs be made at specific repair shops.

HB 1567, making a supplemental appropriation to fund the position of state curator and revising certain supplemental appropriations for youth development services.

HB 1581, prohibiting the operation of a motorboat during license suspension or revocation for DWI and prohibiting the operation of a motor vehicle if a person has been convicted of boating while intoxicated.

HB 1594, relative to commercial drivers licensing.

HB 1609, relative to police dogs and search and rescue dogs.

SB 511, regulating business practices among motor vehicle manufacturers, distributors, and dealers.

SB 524, relative to filing of reports or inventories with the probate court by guardians, fiduciaries, and executors; adopting the uniform disclaimer of property interests act; and relative to jurisdiction of family division courts.

SB 532, relative to the creation and recordation of groundwater management zones.

SB 571, relative to speech-language specialists in the schools.

SB 574, establishing a committee to study issues relating to providing free, appropriate public education for educationally disabled students who are placed at the state prison, a county correctional facility, the youth development center, or the youth services center.

SB 578, relative to the interception and disclosure of telecommunications or oral communications by emergency personnel.

SB 612, relative to the impaired driver intervention program.

SB 613, proclaiming December 7 of each year as New Hampshire Pearl Harbor Remembrance Day.

SB 640, relative to acquisition and mergers involving national banks; relative to branch banking and bank holding company affiliates; relative to trust activities conducted in New Hampshire by out-of-state banks and conducted out-of-state by New Hampshire banks; and relative to certain securities exemptions.

SB 647, permitting holders of certain licenses to sell specialty beer.

Senator Currier moved adoption.

Adopted.

6139

Enrolled Bill Amendment to SB 539-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to blood testing; relative to confidential communications between a patient and a physician or surgeon; relative to claims against the state; adding a member to the emergency medical and trauma services coordinating board; and replacing the medical advisory board with the emergency medical services medical control board.

Amend the introductory paragraph of RSA 265:93 as inserted by section 1 of the bill by replacing line 14 with the following:

under this section shall be conducted by the department of health and human

Senator Currier moved adoption.

Adopted.

6136

Enrolled Bill Amendment to SB 599

Amend RSA 200:38, I(b) as inserted by section 2 of the bill by replacing lines 3 and 4 with the following:

tuberculosis *in accordance with recommendations of the department of health and human services.*

Senator Currier moved adoption.

Adopted.

6144

Enrolled Bill Amendment to HB 1546

Amend the title of the bill by replacing it with the following:

AN ACT
promoting boating safety awareness and naming
the new park and ride in Plaistow the
"Michael C. Weston Memorial
Park and Ride."

Amend RSA 270-D:2-a, III as inserted by section 1 of the bill by replacing line 3 with the following:

may require the registrant or operator to attend a boat safety course,

Amend the bill by replacing all after section 2 with the following:

3 New Section; Boating Safety. Amend RSA 270-D by inserting after section 2-b the following new section:

270-D:2-c Boating Safety Checklist.

I.(a) No person shall register a vessel for operation on any waters of this state, including tidal and coastal waters and all inland waters, unless the registrant initials the checklist portion of the registration form, prepared by the department of safety, which certifies the registrant's knowledge of boating safety laws.

(b) No person shall rent a vessel for operation on any waters of this state, including tidal and coastal waters and all inland waters, unless the rental operator initials a rental safety checklist, prepared by the department of safety, which certifies the rental operator's knowledge of boating safety laws.

II.(a) The registration checklist and rental safety checklist shall include, but shall not be limited to, knowledge of the following provisions of the marine laws:

(1) Safe passage.

(2) DWI.

(3) Headway speed.

(4) Safety equipment.

(5) Navigational lights requirements.

(b) The checklists shall include a provision which states that the registrant or rental operator is responsible for anyone who operates the vessel in accordance with RSA 270-D.

III. The registration checklist and rental safety checklist shall include a provision in which the registrant acknowledges that the director may require the registrant or operator to attend a boat safety course, as provided in RSA 270:46-a, for violating any of the boating laws or rules of the division.

4 Contingency. If SB 547 of the 1996 regular session becomes law, section 3 of this act shall take effect January 1, 1997, and section 1 of this act shall not take effect. If SB 547 does not become law, section 1 of this act shall take effect January 1, 1997, and section 3 of this act shall not take effect.

5 Effective Date.

I. Sections 1 and 3 of this act shall take effect as provided in section 4 of this act.

II. The remainder of this act shall take effect January 1, 1997.

Senator Currier moved adoption.

Adopted.

6141

Enrolled Bill Amendment to HB 1621

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing the executive director of the fish and game department to conduct wildlife population reductions on Long Island in the town of Moultonborough.

Amend section 1 of the bill by replacing lines 2-4 with the following: 206 by inserting after section 23-b the following new section:

206:23-c Wildlife Population Reductions; Long Island, Town of Moultonborough.

Amend RSA 206:23-c, I as inserted by section 1 of the bill by replacing line 6 with the following:

Moultonborough; and to the species, sex, age, number and timing of the

Amend RSA 206:23-c, II(c) as inserted by section 1 of the bill by replacing line 1 with the following:

(c) Inspection, possession, processing, sale, transportation, or

Senator Currier moved adoption.

Adopted.

6134

Enrolled Bill Amendment to SB 547-FN-A

Amend the bill by replacing all after section 3 with the following:

4 New Subparagraph; Application of Receipts. Amend RSA 6:12, I by inserting after subparagraph (mmm) the following new subparagraph:

(nnn) Moneys received by the department of safety, division of safety services, which shall be credited to the fund established in RSA 270-D:2-b.

5 Contingency. If SB 511 of the 1996 regular session becomes law, section 4 of this act shall take effect upon its passage and section 2 of this act shall not take effect. If SB 511 does not become law, section 2 of this act shall take effect upon its passage and section 4 of this act shall not take effect.

6 Authorization for Contingent Renumbering. If any other act of the 1996 regular session of the general court which contains an amendment to RSA 6:12, I which inserts any new subparagraph into paragraph I of such section becomes law, the director of legislative services is authorized to make any technical changes to the numbering in any bill sections or RSA sections inserted by this or any other act as necessary to conform said sections to proper bill or RSA format. Any such changes shall be subject to the approval of the president of the senate and the speaker of the house of representatives. The authority granted under this section shall not include the power to make any substantive changes and shall expire upon printing of the 1996 session laws.

7 Effective Date.

I. Sections 2 and 4 of this act shall take effect as provided in section 5 of this act.

II. The remainder of this act shall take effect upon its passage.

Senator Currier moved adoption.

Adopted.

6147

Enrolled Bill Amendment to HB 1173-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to juvenile court proceedings and victims' rights in
the context of delinquency proceedings.

Amend section 3 of the bill by replacing line 2 with the following:
paragraph of RSA 169-B:35-a, II and the introductory paragraph of RSA
169-B:35-a, II(a) are repealed and reenacted to

Senator Currier moved adoption.

Adopted.

6149

Enrolled Bill Amendment to HB 417

Amend section 1 of the bill by replacing line 1 with the following:

1 Investments by Governmental Entities. Amend RSA 6-B:2, VIII to
read

Amend section 2 of the bill by replacing line 41 with the following:
***the county commissioners, shall review and adopt an investment
policy for the***

Amend section 7 of the bill by replacing line 17 with the following:
***to investment guidelines adopted by the trustees under applicable
statutes***

Senator Currier moved adoption.

Adopted.

6146

Enrolled Bill Amendment to HB 1110-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the acceptance of gifts of personal property valued at
over \$5,000 donated to public libraries and establishing
a task force on electronic information
in state government.

Amend paragraph I of section 8 of the bill by replacing it with the fol-
lowing:

I. Section 1 of this act shall take effect June 23, 1996, at 12:01 a.m.

Amend the bill by deleting section 2 and renumbering the original sec-
tions 3-8 to read as 2-7, respectively.

Senator Currier moved adoption.

Adopted.

6152

Enrolled Bill Amendment to HB 1134-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the registration of certain
criminal offenders.

Amend RSA 651-B:7 as inserted by section 1 of the bill by replacing it
with the following:

651-B:7 Confidentiality.

I. Any records established or information collected pursuant to the provisions of this chapter shall be classified as confidential under RSA 91-A:5, IV and shall be made available only to law enforcement officials and their authorized designees or to the individual requesting the individual's own record in the LENS system. However, nothing in this section shall be construed to limit access to a person's criminal record under the provisions of RSA 106-B:14, including address information obtained under the provisions of this chapter.

II.(a) Notwithstanding paragraph I, a law enforcement agency may notify organizations in the community where the person intends to reside when a person convicted of a violation of RSA 632-A:2, I(1) or RSA 632-A:2, II or of an equivalent offense in an out-of-state jurisdiction registers under this chapter unless a qualified order has been issued by the Merrimack county superior court. In this section, "organization" shall include but shall not be limited to schools, youth groups, day care centers, summer camps, libraries, or any other organization where children gather and are supervised by persons in the organization.

(b) The law enforcement agency may notify an organization pursuant to subparagraph (a) 10 days after registration unless notified by the petitioner of the filing of a petition for a qualifying order with the Merrimack county superior court. If a petition for a qualifying order is filed, the law enforcement agency may not notify an organization until 30 days after a final order from the superior court unless a notice of appeal by the petitioner is filed with the supreme court. If a notice of appeal is filed with the supreme court, the law enforcement agency may not notify an organization until 10 days after an order from the supreme court authorizing release of information pursuant to subparagraph (a).

(c) A law enforcement agency may provide an organization with the following information concerning a person convicted of a violation of RSA 632-A:2, I(1) or RSA 632-A:2, II or of an equivalent offense in an out-of-state jurisdiction:

- (1) Name and address of the individual.
- (2) A recent photograph of the individual, if available.
- (3) The offense for which the individual was convicted.
- (4) The method of approach the individual has utilized.
- (5) Information on the profile of previous victims of his offenses.

(d) The law enforcement agency may utilize a form developed by the department of safety for the dissemination of information.

III.(a) A qualified order may be issued only if the individual has filed a petition for a qualified order with the superior court no later than 10 calendar days after registration with the local law enforcement agency.

(b) The court shall give such petition priority on the court calendar. The court shall rule upon the petition within 10 business days of the submission of all evidence and memoranda by the parties.

(c) The court shall issue a qualified order if the court finds by clear and convincing evidence that the risk of reoffending is low. In reaching its finding the superior court may consider, but not be limited to, the following:

(1) Circumstances of the petitioner's release which minimize the risk of reoffending including, but not limited to, whether:

- (A) The petitioner is under the supervision of probation or parole;
- (B) The petitioner is receiving counseling, therapy, or treatment; or
- (C) The petitioner is residing in a home situation that provides guidance and supervision.

(2) Whether the petitioner's physical condition minimizes the risk of reoffending including, but not limited to, whether the petitioner is of advanced age or suffers from a debilitating illness.

(3) Factors present in the criminal history of the petitioner which are indicative of a high risk of reoffending including, but not limited to, the following:

(A) Whether the petitioner's illegal conduct was found to be repetitive.

(B) The number, date, and nature of the petitioner's prior criminal convictions.

(4) Any history of substance abuse on the part of the petitioner.

(5) The petitioner's response to treatment.

(6) The petitioner's recent behavior, including behavior while confined or while under supervision in the community as well as behavior in the community following completion of sentence.

(d) The rules of evidence shall not apply to proceedings under this section. The proceedings shall be conducted in camera. The pleadings filed pursuant to this section shall be sealed if the court finds by clear and convincing evidence that disclosure beyond law enforcement is not warranted, unless the attorney general takes a timely appeal from the court's ruling in which case the records may be utilized for purposes of the appeal and as necessary to effectuate any order issued by the supreme court.

IV. The law enforcement agency shall not release information concerning the sex offender to organizations when it has received notice of the filing of the petition. The agency shall not disseminate information to such organizations until a court has denied the petition and either the period for the filing of a notice of appeal has expired without the filing of the notice of appeal by the petitioner or the supreme court has found against the petitioner on the merits of the petition. The burden is upon the petitioner to notify the law enforcement agency of the intention to file a petition, as well as the filing of a notice of appeal with the supreme court.

V. It is the responsibility of each organization that receives information concerning a registered sex offender to take appropriate steps to educate and alert staff members who are charged with the care and supervision of children. This information may only be used for the purpose of protecting the children in the charge of the organization and its staff. Information is not to be used to provide notification to the community at large.

VI. Notwithstanding any provision of law to the contrary, petitions shall be filed in the Merrimack county superior court. The office of attorney general shall respond to all petitions filed under this section and shall be served with copies of any petition filed. If the petitioner moves to a different city or town within the state before a determination is made on the merits of the petition, the petitioner shall either amend the filed petition or withdraw the petition.

VII. A court order granting or denying a qualified order issued in compliance with RSA 651-B:7, III, shall be binding upon both the petitioner and law enforcement agencies of the state for a period of 10 years and shall estop the relitigation of that order in the event that the offender relocates to a different jurisdiction within the state during that period of time.

VIII. Notwithstanding any other provision of law to the contrary, any person other than the sex offender who makes or fails to make a disclo-

sure of information as authorized by paragraph II(c) or V shall not be liable in any civil or criminal action. Nothing in this section shall be deemed to grant any such immunity to any person for that person's reckless or wanton act of commission or omission.

Senator Currier moved adoption.

Adopted.

6150

Enrolled Bill Amendment to HB 1323

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a committee to study the issue of the use and disposal of sludge or septage, and requiring notification to certain persons before the application of sludge or septage.

Senator Currier moved adoption.

Adopted.

6145

Enrolled Bill Amendment to HB 1450-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to postsecondary educational assistance for members of the New Hampshire national guard and establishing a study committee on postsecondary educational assistance for members of the New Hampshire national guard.

Senator Currier moved adoption.

Adopted.

6151

Enrolled Bill Amendment to HB 1576-FN

Amend RSA 318-B:10, VIII(a) as inserted by section 2 of the bill by replacing line 1 with the following:

VIII.(a) Notwithstanding paragraph VII or any other law to the

Senator Currier moved adoption.

Adopted.

6148

Enrolled Bill Amendment to HB 1620

Amend RSA 12-A:29-a, I as inserted by section 1 of the bill by replacing lines 2-3 with the following:

used to determine the fee structure and to measure the amount of fees to be paid, and default conditions.

Amend RSA 12-A:29-a, II as inserted by section 1 of the bill by replacing line 3 with the following:

transferred or sold to the lessee, determination of the value of the assets, and

Senator Currier moved adoption.

Adopted.

6143

Enrolled Bill Amendment to SB 625

Amend section 24 of the bill by replacing line 1 with the following:
 24 Gender Reference Change. Amend RSA 417-A:10, III to read as follows:

Amend the bill by replacing section 26 with the following:

26 Contingent Nullification. If HB 1485 of the 1996 legislative session becomes law, then sections 2-19 of this act shall not take effect.

27 Effective Date. This act shall take effect January 1, 1997.

Senator Currier moved adoption.

Adopted.

6103

Enrolled Bill Amendment to HB 1513

Amend RSA 304-B:2, II(a) as inserted by section 2 of the bill by replacing lines 12-15 with the following:

(6) Trade name registered under RSA 349;

(7) Name reserved under RSA 293-A, 293-B, 304-B, or 304-C; or

(8) Agency or instrumentality of the United States or of this

Amend RSA 304-B:2, II(b) as inserted by section 2 of the bill by replacing line 3 with the following:

name which is the same as or deceptively similar to one or more of the names

Amend RSA 421-B:2, I as inserted by section 6 of the bill by replacing line 3 with the following:

law or rule to be determined by the department after an opportunity for a

Amend RSA 421-B:2, IV-b as inserted by section 9 of the bill by replacing lines 4-5 with the following:

the department or by any other legal entity that sets forth specific allegations and requests administrative action by the department.

Amend RSA 421-B:2, VII-a as inserted by section 11 of the bill by replacing line 1 with the following:

VII-a. "Hearing" means the receipt and consideration by the department

Amend RSA 421-B:2, XIII-a as inserted by section 14 of the bill by replacing line 3 with the following:

directly to [the general public] ***any person who is not a general partner,***

Amend RSA 421-B:2, XX-a as inserted by section 19 of the bill by replacing line 1 with the following:

XX-a. "Staff" means the employees of the department including but not

Amend RSA 421-B:17, II(a) as inserted by section 25 of the bill by replacing line 4 with the following:

[pursuant to this exemption] ***other than those designated in RSA 421-B:17,***

Amend RSA 421-B:17, II(h)(3)(xi) as inserted by section 27 of the bill by replacing it with the following:

(xi) Uniform consent to service of process on Form U-2; and

Amend RSA 421-B:26-a, II as inserted by section 34 of the bill by replacing line 2 with the following:

received at the department's office in Concord, New Hampshire, and conforms to

Amend RSA 421-B:26-a, III(c) as inserted by section 34 of the bill by replacing line 1 with the following:

(c) The signature on a document filed with the department shall

Amend RSA 421-B:26-a, IV(a) as inserted by section 34 of the bill by replacing line 1 with the following:

(a) The department staff or a presiding officer shall review the

Amend RSA 421-B:26-a, IV(d) as inserted by section 34 of the bill by replacing line 5 with the following:
hearing by the department.

Amend RSA 421-B:26-a, V(a) as inserted by section 34 of the bill by replacing line 4 with the following:

the hearing notice, of the respondent's right to a hearing.

Amend RSA 421-B:26-a, VIII as inserted by section 34 of the bill by replacing line 4 with the following:

the case by both the department and interested parties.

Amend RSA 421-B:26-a, IX as inserted by section 34 of the bill by replacing line 2 with the following:

and received by the department, absent exigent circumstances, at least 5

Amend RSA 421-B:26-a, XVI as inserted by section 34 of the bill by replacing line 4 with the following:

cost of providing the tape, or a true and accurate copy of such tape or

Amend RSA 421-B:26-a, XXI as inserted by section 34 of the bill by replacing line 3 with the following:

the department and may set forth findings of fact, conclusions of law, and

Amend the bill by replacing section 39 with the following:

39 New Subparagraph; Certain Securities Exempted from Registration.
Amend RSA 421-B:17, I(f)(1) by inserting after subparagraph (f)(1)(ii) the following new subparagraph:

(iii) Upon petition by an exchange and after review of such exchange's performance, its memorandum of understanding with the North American Securities Administrators Association and upon review of any other information the secretary of state may require, the secretary may by order designate such exchange as qualified under subparagraph (i) or (ii) for the exemption provided by subparagraph (f)(1).

40 Timing Modification. Amend RSA 421-B:17, II(k) to read as follows:

(k) Any offer or sale of securities, including offers and sales pursuant to preorganization subscriptions for the securities of an issuer to be formed, by a corporation, limited partnership, registered limited liability partnership, or limited liability company having its principal office in this state if, after giving effect to the sale, the aggregate number of holders of all of the issuer's securities, all of whom shall have purchased for investment, does not exceed 10, exclusive of persons designated in subparagraph (g), provided that no commission or other remuneration has been paid and no advertising has been published or circulated in connection with any such sale, and all sales are consummated within [30] **60** days after [commencement of business by] **the date of incorporation or formation of** the issuer. The secretary of state may by rule or order increase the number of persons to whom sales may be made under this exemption.

41 Contingency.

I. If SB 640 of the 1996 regular session becomes law, section 39 of this act shall take effect 60 days after its passage and section 23 of this act shall not take effect. If SB 640 does not become law, section 39 of this act shall not take effect and section 23 of this act shall take effect 60 days after its passage.

II. If HB 580-FN of the 1996 regular session becomes law, section 40 of this act shall take effect at 12:01 a.m. on the date 60 days after its passage and section 29 of this act shall not take effect. If HB 580-FN does not become law, section 29 of this act shall take effect 60 days after its passage and section 40 of this act shall not take effect.

42 Effective Date.

I. Sections 23, 29, 39, and 40 of this act shall take effect as provided in section 41 of this act.

II. The remainder of this act shall take effect 60 days after its passage.

Senator Currier moved adoption.

Adopted.

6159

Enrolled Bill Amendment to HB 1610-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

allowing school districts to withdraw from
school administrative units.

Amend RSA 194:1-a as inserted by section 2 of the bill by replacing line 2 with the following:

RSA 194-C:3, single district school administrative units shall be

Amend RSA 194-C:2, I(a) as inserted by section 3 of the bill by replacing lines 5-7 with the following:

the effective date of this chapter has voted affirmatively on a warrant article to consider withdrawal from or a reorganization of its school administrative unit, shall be deemed to have complied with this subparagraph.

Senator Currier moved adoption.

Adopted.

6157

Enrolled Bill Amendment to HB 1619-A

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River,
authorizing the department of health and human services
to reroof 4 buildings, extending the lapse date on
the Plaistow district court design, relative to
refunding bonds and credit arrangements
for state notes, relative to disaster
assistance and making an
appropriation therefor,
and relative to the
Pease development
authority and the
Manchester
airport.

Amend section 1 of the bill by replacing line 1 with the following:

1 Intent. The intent of sections 2 and 3 of this act is to refinance a sum of

Amend section 4 of the bill by replacing lines 1-2 with the following:

4 Additional Roof Included in Appropriation. Amend 1993, 359:1, V, C, 2 to read as follows:

Senator Currier moved adoption.

Adopted.

6158

Enrolled Bill Amendment to HB 1555-FN-A

Amend section 1 of the bill by replacing line 1 with the following:

1 New Paragraphs; Definitions Added; Air Pollution Control. Amend RSA 125-C:2 by

Amend section 2 of the bill by replacing line 1 with the following:

2 New Paragraphs; Definitions Added; Air Pollution Control. Amend RSA 125-C:2 by

Amend section 3 of the bill by replacing line 1 with the following:

3 New Paragraph; Definition Added; Air Pollution Control. Amend RSA 125-C:2 by

Amend RSA 125-I:4 as inserted by section 6 of the bill by replacing line 10 with the following:

commissioner under this section shall be in accordance with RSA 541. Any

Amend section 7 of the bill by replacing lines 1-3 with the following:

7 New Paragraph; Authority to Impose Administrative Fines Added; Emissions Reduction Credits Trading Program. Amend RSA 125-J:8 by inserting after paragraph I the following new paragraph:

Amend the bill by replacing all after section 9 with the following:

10 New Paragraph; Definition Added; Air Pollution Control. Amend RSA 125-C:2 by inserting after paragraph X the following new paragraph:

X-a. "Repeat violation" means a subsequent violation of a statute or rule at a facility or by a person for which a letter of deficiency, administrative order, or administrative fine has previously been issued by the department.

11 New Paragraph; Authority to Impose Administrative Fines Added; Air Pollution Control. Amend RSA 125-C:15 by inserting after paragraph I-a the following new paragraph:

I-b. The commissioner of the department of environmental services, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter, any rule adopted pursuant to this chapter, or any permit, compliance schedule, stop use order, or order of abatement, issued pursuant to this chapter; or upon any person who makes or certifies a material false statement relative to any document or information which is required to be submitted to the department pursuant to this chapter or any rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this paragraph shall not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines imposed pursuant to this paragraph shall be deposited in the general fund.

(a) Notice and hearing prior to the imposition of an administrative fine shall be in accordance with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA 541-A:16.

(b) The commissioner shall determine fines based on the following:

(1) For a minor deviation from a requirement causing minor potential for harm, the fine shall be not less than \$100 and not more than \$1,000.

(2) For a minor deviation from a requirement causing moderate potential for harm, the fine shall be not less than \$601 and not more than \$1,250.

(3) For a minor deviation from a requirement causing major potential for harm, the fine shall be not less than \$851 and not more than \$1,500.

(4) For a moderate deviation from a requirement causing minor potential for harm, the fine shall be not less than \$601 and not more than \$1,250.

(5) For a moderate deviation from a requirement causing moderate potential for harm, the fine shall be not less than \$851 and not more than \$1,500.

(6) For a moderate deviation from a requirement causing major potential for harm, the fine shall be not less than \$1,251 and not more than \$1,750.

(7) For a major deviation from a requirement causing minor potential for harm, the fine shall be not less than \$851 and not more than \$1,500.

(8) For a major deviation from a requirement causing moderate potential for harm, the fine shall be not less than \$1,251 and not more than \$1,750.

(9) For a major deviation from a requirement causing major potential for harm, the fine shall be not less than \$1,501 and not more than \$2,000.

(c) The commissioner may assess an additional fine for repeat violations.

12 New Section; Authority to Impose Administrative Fines Added; Acid Rain Control Act. Amend RSA 125-D by inserting after section 3 the following new section:

125-D:4 Administrative Fines. The commissioner of the department of environmental services, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter, any rule adopted pursuant to this chapter, or any permit or order issued pursuant to this chapter; or upon any person who makes or certifies a material false statement relative to any document or information which is required to be submitted to the department pursuant to this chapter or any rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner under this section shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines imposed pursuant to this section shall be deposited in the general fund.

I. Notice and hearing prior to the imposition of an administrative fine shall be in accordance with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA 541-A:16.

II. The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b).

III. The commissioner may assess an additional fine for repeat violations.

13 New Section; Authority to Impose Administrative Fines Added; Air Toxic Control Act. Amend RSA 125-I by inserting after section 3 the following new section:

125-I:4 Administrative Fines. The commissioner of the department of environmental services, after notice and hearing pursuant to RSA 541-A,

may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter, any rule adopted pursuant to this chapter, or any permit or order issued pursuant to this chapter; or upon any person who makes or certifies a material false statement relative to any document or information which is required to be submitted to the department pursuant to this chapter or any rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner under this section shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines imposed pursuant to this section shall be deposited in the general fund.

I. Notice and hearing prior to the imposition of an administrative fine shall be in accordance with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA 541-A:16.

II. The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b).

III. The commissioner may assess an additional fine for repeat violations.

14 New Paragraph; Authority to Impose Administrative Fines Added; Emissions Reduction Credits Trading Program. Amend RSA 125-J:8 by inserting after paragraph I the following new paragraph:

I-a. The commissioner of the department of environmental services, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter, any rule adopted pursuant to this chapter, or any permit, compliance schedule, stop use order, or order of abatement issued pursuant to this chapter; or upon any person who makes or certifies a material false statement relative to any document or information which is required to be submitted to the department pursuant to this chapter or any rule adopted pursuant to this chapter. Rehearings and appeals from a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this paragraph shall not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines imposed pursuant to this paragraph shall be deposited in the general fund.

(a) Notice and hearing prior to the imposition of an administrative fine shall be in accordance with RSA 541-A and procedural rules adopted by the commissioner pursuant to RSA 541-A:16.

(b) The commissioner shall determine fines in accordance with RSA 125-C:15, I-b(b).

(c) The commissioner may assess an additional fine for repeat violations.

15 Contingency; HB 1314. If HB 1314 of the 1996 legislative session becomes law, then sections 10-14 of this act shall take effect January 1, 1997, and sections 3-7 of this act shall not take effect. If HB 1314 does not become law, then sections 3-7 of this act shall take effect January 1, 1997, and sections 10-14 of this act shall not take effect.

16 Contingency; SB 600-FN. If SB 600-FN of the 1996 legislative session becomes law, then RSA 125-C:2, IX-a through IX-d as inserted by section 2 of this act shall be renumbered as IX-b through IX-e, respectively.

16 Contingency; SB 601-FN. If SB 601-FN of the 1996 legislative session becomes law, then RSA 125-I:4 as inserted by section 6 or section 13 of this act shall be renumbered as RSA 125-I:3-a.

17 Effective Date.

I. Sections 3-7 and 10-14 of this act shall take effect as provided in section 15 of this act.

II. The remainder of this act shall take effect January 1, 1997.

Senator Currier moved adoption.

Adopted.

6154

Enrolled Bill Amendment to HB 1541

Amend section 1 of the bill by replacing line 1 with the following:

1 Definition Clarified. RSA 277-B:2, IV is repealed and reenacted to read as

Amend section 5 of the bill by replacing lines 2 and 3 with the following:

paragraph of RSA 277-B:9 to read as follows:

An employee

Senator Currier moved adoption.

Adopted.

6155

Enrolled Bill Amendment to HB 1399

Amend the title of the bill by replacing it with the following:

AN ACT

establishing 2 new positions in the department of environmental services to implement the sludge permit system, making appropriations from the balance contained in the sewage disposal system fund, and relative to the sewage disposal system fund.

Amend the bill by replacing all after section 7 with the following:

8 Recording Fees for Sewage Disposal Systems. Amend RSA 485-A:30, II to read as follows:

II. Any person submitting plans and specifications for sewage or waste disposal systems shall pay to the department a fee *of \$5* for each system for recording the approval for operation number with the registry of deeds. [Such fee shall be the same as that established by the registry of deeds for the recording of such documents.] All fees collected under this section shall be deposited with the state treasurer and reserved in a special nonlapsing sewage disposal system fund which shall be continually appropriated to the department to be used for the administration of this section.

9 Reference Deleted. Amend RSA 485-A:29, II to read as follows:

II. [Approval for operation numbers shall be recorded by the department with the registry of deeds in each county for each system.] Permitted designers of subsurface sewage disposal systems shall obtain the registry of deeds volume and page numbers for each lot that relates to the septic system application and provide them to the department. The department shall develop and approve an outline of brief instructions for the periodic maintenance, care and proper usage of waste disposal systems, including a warning of the potential public health hazard and pollution of public and private water supplies and surface water of the state from improperly maintained sewage and waste disposal systems.

10 Contingency. If HB 1314 of the 1996 regular session becomes law, section 8 of this act shall take effect July 1, 1996, at 12:01 a.m., section 9 of this act shall take effect July 1, 2000, and sections 3 and 4 of this act shall not take effect. If HB 1314 does not become law, section 3 of this act shall take effect July 1, 1996, section 4 of this act shall take effect July 1, 2000, and sections 8 and 9 of this act shall not take effect.

11 Effective Date.

I. Sections 3, 4, 8 and 9 of this act shall take effect as provided in section 10 of this act.

II. Sections 5-7 of this act shall take effect July 1, 2000.

III. Section 10 of this act shall take effect upon its passage.

IV. The remainder of this act shall take effect July 1, 1996.

Senator Currier moved adoption.

Adopted.

6153

Enrolled Bill Amendment to SB 633-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to victim restitution and compensation, establishing a special fund, and relative to expenses for voluntary or court dispositional service plans and recovery of costs for a minor's support.

Amend section 3 of the bill by replacing line 3 with the following

V-a. Notwithstanding any right by a victim to claim restitution or a

Amend section 10 of the bill by replacing line 2 with the following:
Programs Required. Amend RSA 169-B by inserting after section 19-b the

Amend section 11 of the bill by replacing line 2 with the following:
Programs Required. Amend RSA 169-C by inserting after section 19-b the

Amend the bill by replacing all after section 21 with the following:

22 Authorization for Contingent Renumbering. If any other act of the 1996 regular session of the general court which contains an amendment to RSA 6:12, I which inserts any new subparagraph into paragraph I of such section becomes law, the director of legislative services is authorized to make any technical changes to the numbering in any bill sections or RSA sections inserted by this or any other act as necessary to conform said sections to proper bill or RSA format. Any such changes shall be subject to the approval of the president of the senate and the speaker of the house of representatives. The authority granted under this section shall not include the power to make any substantive changes and shall expire upon printing of the 1996 session laws.

23 Effective Date.

I. Sections 10-18, 20, and 22 of this act shall take effect upon its passage.

II. Section 19 of this act shall take effect on July 1, 2001.

III. The remainder of this act shall take effect July 1, 1997.

Senator Currier moved adoption.

Adopted.

6156

Enrolled Bill Amendment to SB 580

Amend the bill by replacing section 36 with the following:

36 Free Drinks. RSA 179:44 is repealed and reenacted to read as follows:

179:44 Free Drinks.

I. No licensee shall give away free drinks to customers, patrons, members or guests, in any manner.

II. Notwithstanding the above, beverage manufacturers, beverage vendors, beverage vendor importers, brew pubs, wholesale distributors and their beverage representatives or liquor or wine vendors, their liquor and wine representatives, domestic wine manufacturer and on-sale and off-sale licensees may conduct beverage, liquor or wine tasting, as applicable, on licensed premises. Liquor, beverage or wine tasting shall be conducted only during such hours as are authorized by the commission for the sale of the product on the premises.

III. Liquor, beverage or wine samples shall be consumed on the premises, and liquor or wine for this purpose shall be purchased from the commission under conditions prescribed by this title. Beverage samples for a tasting shall only be obtained as prescribed by this title.

IV. The commission may adopt rules, pursuant to RSA 541-A, establishing the criteria and procedures for liquor, beverage, and wine tasting within the state.

V. All samples furnished for tasting shall be considered sales for the requirements of RSA 178:28, I and RSA 178:30, I.

37 Prohibited Interests. Amend RSA 179:11, II to read as follows:

II. There shall be no restriction on the number of off-sale licenses held by any person. No holder of a beverage manufacturer license, brew pub license, wholesale distributor license, beverage vendor license, beverage vendor importer license or beverage representative license shall in any way contribute or pay any money or anything in lieu thereof to any on-sale or off-sale licensee, or the licensee's agent or employees, or to any group, association, or organization thereof, including, but not limited to, payment for the placement, display or sale of any beverage. Nothing in this section shall prohibit any licensee from being a member of a club holding a permit or license under this title, nor prohibit the sale or purchase, for resale, of merchandise or beverages for the conduct of the business of any on-sale or off-sale licensee. Nothing in this section shall prohibit a holder of a beverage manufacturer license, brew pub license, wholesale distributor license, beverage vendor license, beverage vendor importer license or beverage representative license from bringing such holder's own product from the storeroom of an on-sale or off-sale licensee to a warm shelf, display, refrigerated retail space, or refrigerated storage. Nothing in this section shall prohibit the holder of a beverage manufacturer's license, wholesale distributors license, brew pub license, beverage vendors license, beverage vendor importers license, or beverage representative license from rotating, reorganizing, cleaning and resetting such holder's own product once the product is on an on-sale or off-sale licensee's warm shelf, or in an on-sale or off-sale licensee's refrigerated retail space, or refrigerated storage. ***Nothing in this section shall prohibit a wholesale distributor from delivering beverages invoiced to an on-sale or off-sale retailer to the premises of a liquor/wine/beverage warehouse for storage, provided the retailer has met the requirements of RSA 179:49.***

38 Contingency. If SB 647-FN of the 1996 regular legislative session becomes law, section 37 of this act shall take effect at 12:01 a.m. on the effective date of SB 647 and section 19 of this act shall not take effect. If SB 647-FN does not become law, section 19 of this act shall take effect upon its passage and section 37 of this act shall not take effect.

39 Effective Date.

I. Sections 19 and 37 of this act shall take effect as provided in section 38 of this act.

II. Section 36 of this act shall take effect June 23, 1996, at 12:01 a.m.

III. The remainder of this act shall take effect upon its passage.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 530, abolishing the position of the director of state ski operations and transferring the director's duties, and relative to state ski operations revenue.

HB 1025, relative to a 10-year transportation plan, relative to the Derry local exit on I-93, and extending the lapse dates for certain capital appropriations to the department of transportation.

HB 1194, exempting motorsport events from certain aspects of the laws regulating campgrounds and camping parks.

HB 1288, establishing a study committee on pesticide product registration policies.

HB 1289, relative to restrictions on waters used as a public water supply, requiring notification to municipalities for certain water withdrawals, and relative to state water pollution control and drinking water revolving loan funds.

HB 1300, relative to the enforcement of zoning regulations.

HB 1545, recognizing the validity of faxed search and arrest warrants and domestic violence orders.

HB 1550, relative to a lobster management plan and relative to lobster and crab licenses.

HB 1564, relative to procedures in hearings of juvenile cases and relative to termination of the guardianship of a minor.

HB 1621, authorizing the executive director of the fish and game department to conduct wildlife population reductions on Long Island in the town of Moultonborough.

SB 11, relative to notification to municipalities of governmental use of property.

SB 594, relative to procedures under the official ballot option to town meeting and establishing a committee to examine procedural aspects of the official ballot law.

SB 599, relative to school health services and the duties of school nurses, and requiring an education and monitoring component for regulating medication administration in a hospice house.

SB 623, establishing a committee to study an optional retirement program for employees of the department of regional community-technical colleges.

HB 1442, relative to the term of the commissioner of administrative services and relative to revenue and expenditures for the biennium ending June 30, 1997.

HB 1546, promoting boating safety awareness and naming the new park and ride in Plaistow the "Michael C. Weston Memorial Park and Ride."

SB 539, relative to blood testing; relative to confidential communications between a patient and a physician or surgeon; relative to claims against the state; adding a member to the emergency medical and trauma services coordinating board; and replacing the medical advisory board with the emergency medical services medical control board.

SB 547, requiring the department of safety, division of safety services, to publish the New Hampshire Boaters guide, establishing a revolving fund to pay for publication of the Boaters guide and making an appropriation therefor.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 281, changing the composition of the board of managers of the veterans' home.

HB 1203, excluding pupils in home education programs from average daily membership in cooperative school district apportionment formulas, and deleting the date for notification for home education.

HB 1366, requiring the commissioner of the department of corrections to prepare and publish an annual comprehensive plan for the state's correctional system.

HB 1291, relative to vandalism and criminal mischief.

HB 1331, relative to clarifying certain provisions under the workers' compensation law, and relative to fees for inspection certificates for elevators.

HB 1536, relative to encouraging private purchase, clean up, and restoration of environmentally contaminated sites and making a supplemental appropriation to the department of environmental services.

HB 1539, relative to fees for group dog licenses and making a technical correction.

HB 1571, relative to the guidelines for the construction and maintenance of certain recreational trails.

HB 1606, relative to child support collection.

HB 1631, relative to felonious use of body armor.

SB 7, relative to kindergarten aid programs and making an appropriation therefor, and establishing a local education improvement assistance program and making an appropriation therefor.

SB 517, relative to assessments against owners of property in central business districts.

SB 545, relative to the powers of city councils.

SB 573, relative to the issuance by courts of telephonic emergency temporary orders.

SB 600, clarifying the authority of the department of environmental services to issue facility-wide permits for sources not subject to Title V.

SB 635, relative to cost of living adjustments for retired firefighters and relative to the special account for additional benefits held by the board of trustees of the New Hampshire retirement system.

SB 656, expanding drug-free school zones to include Head Start facilities.

SB 659, disqualifying individuals who leave self-employment or close a business from receiving unemployment compensation benefits.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 417, relative to investments of public funds by town trustees.

HB 1110, relative to the acceptance of gifts of personal property valued at over \$5,000 donated to public libraries and establishing a task force on electronic information in state government.

HB 1134, relative to the registration of certain criminal offenders.

HB 1173, relative to juvenile court proceedings and victims' rights in the context of delinquency proceedings.

HB 1323, establishing a committee to study the issue of the use and disposal of sludge or septage, and requiring notification to certain persons before the application of sludge or septage.

HB 1450, relative to postsecondary educational assistance for members of the New Hampshire national guard and establishing a study committee on postsecondary educational assistance for members of the New Hampshire national guard.

HB 1513, relative to filings and records held by the secretary of state and relative to securities regulation.

HB 1576, relative to extended detoxification of pregnant and postpartum heroin addicts utilizing the controlled drug methadone.

HB 1620, relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas, authorizing the services of a consultant to develop a prototype lease and making an appropriation therefor.

SB 625, relative to insurance fraud.

Senator Currier moved adoption.

Adopted.

6161

Enrolled Bill Amendment to HB 1597

Amend RSA 21-O:5-a, I as inserted by section 6 of the bill by replacing line 6 with the following:

wetlands council; provided, however, that nothing in this section shall be

Amend RSA 227-J:6, III as inserted by section 9 of the bill by replacing line 1 with the following:

III. Pursuant to the rules of the [wetlands board] ***division of***

Amend RSA 482-A:8 as inserted by section 18 of the bill by replacing line 1 with the following:

482-A:8 ***Public Comment and*** Hearing. [The board shall hold a public

Amend RSA 482-A:10, XV as inserted by section 19 of the bill by replacing line 3 with the following:

in part, as the case may be; but, in case such decision is wholly or

Amend RSA 482-A:15, II as inserted by section 23 of the bill by replacing line 8 with the following:

forth in RSA 675:2 or ***675:3***, as applicable.

Amend RSA 482-A:17 as inserted by section 23 of the bill by replacing lines 8-9 with the following:

municipality in which the property is situated, and to the department of health and human services,

Amend section 26 of the bill by replacing line 1 with the following:

26 Reference Changed. Amend RSA 482-A:22-23 to read as follows:

Amend RSA 482-A:22 as inserted by section 26 of the bill by replacing line 9 with the following:

the department of health and

Amend the bill by replacing section 34 with the following:

34 Reference Changed. Amend RSA 4:40-a and 4:40-b to read as follows:

4:40-a Grant of Right. The governor and council, upon petition and upon recommendation of the [wetlands board] ***department of environmental services, and*** after consultation with the fish and game commission and such other state agencies as may be involved, may, for such consideration as they deem just, convey sand and gravel which is on the bed of any navigable water or great pond, in accordance with the provisions of this subdivision. For the [purpose hereof] ***purposes of this section*** great pond is defined as a public water of more than 10 acres.

4:40-b Petition. Every petition for such sand or gravel shall be referred to the [wetlands board and said board] ***department of environmental services. The department,*** after due notice to abutters and others as deemed necessary and upon investigation, shall make its recommendations to the governor and council. If the [board] ***department*** shall recommend that the petition be granted such recommendation shall include appropriate specifications and conditions necessary to the protection of public rights and to the protection of the rights and privileges of persons owning land in the vicinity of the area from which [said] ***the*** sand or gravel is to be taken.

35 New Section; Wetlands Council Established. Amend RSA 21-O by inserting after section 5 the following new section:

21-O:5-a Wetlands Council.

I. There is established a wetlands council for the purpose of implementing the provisions of law conferring on the department authority to decide matters relative to resources of the state, including, but not limited to, excavating, dredging and filling waters of the state. Appointees and officials shall have voting rights as members of the wetlands council; provided, however, that nothing in this section shall be construed as affecting other duties of the department with reference to dams, water levels, and administration of the department of environmental services. The wetlands council shall be composed of the following:

(a) The executive director of the department of fish and game or designee.

(b) The commissioner of transportation or designee.

(c) The commissioner of resources and economic development or designee.

(d) The director of the office of state planning or designee.

(e) The commissioner of the department of environmental services or designee.

(f) The commissioner of safety or designee.

(g) Six members of the public appointed by the governor and council for a term of 3 years or until a successor is chosen. One of these shall be a member of a municipal conservation commission at the time of appointment, and be one of 3 nominees submitted by the New Hampshire Association of Conservation Commissions; one shall be a supervisor, associate supervisor, former associate supervisor or former supervisor, of a conservation district at the time of appointment, and be one of 3 nominees submitted by the New Hampshire Association of Conservation Districts; one shall be an elected municipal official at the time of appointment, and be one of 3 nominees submitted by the New Hampshire Municipal Association; one shall be a member of the non-marine construction industry at the time of appointment, and be nominated by the governor; one shall be a member of the marine construction industry at the time of appointment and be nominated by the governor; and one shall have experience in environmental protection and resource management at the time of appointment and be one of 4 nominees submitted 2 each, by the New Hampshire Audubon Society and the Society for the Protection of New Hampshire Forests. One member of the council shall be elected annually as chairperson by the members of the council.

II. The 6 members appointed under subparagraph I(g) shall be entitled to expenses and \$50 compensation per diem. The other members of the council shall receive no additional compensation for their service as members of the council, other than their regular salaries from their respective state departments, but shall receive mileage and other expenses paid at the rate set for state employees.

III. The wetlands council shall receive administrative support from the department.

IV. The council shall consult with and advise the commissioner of the department of environmental services, on a continuing basis with respect to the policy, programs, goals, and operations of the department as they relate to wetlands with particular emphasis on long-range planning for the department and on education of the public relative to the functions of the department. In order to accomplish these purposes, the council shall meet with the commissioner not less frequently than quarterly, or at the call of the chairperson or 3 council members. The council shall file annually a report of its deliberations and recommendations with the commissioner of the department of environmental services and the governor and council.

V. The wetlands council shall hear and decide all appeals from department decisions relative to the functions and responsibilities of the department which relate to wetlands, in accordance with rules adopted by the council.

VI. The commissioner of the department of environmental services shall present all proposed rules relative to wetlands to the wetlands council for consideration prior to filing a notice of proposed rule under RSA 541-A:6. The council shall present any objections to proposed rules to the commissioner in writing within 15 days. The commissioner may adopt a

rule to which the council has objected only after presenting a written reply to the council detailing the reasons for adopting the rule over the objections of the council.

VII. The council shall adopt rules in accordance with the rulemaking provisions of RSA 541-A to govern its proceedings. The council shall be subject to the requirements of RSA 541-A:36, notwithstanding RSA 21-O:14.

36 Reference Changed. Amend 155-E:4-a, II-a to read as follows:

II-a. No excavation shall be permitted within 75 feet of any great pond, navigable river, or any other standing body of water 10 acres or more in area or within 25 feet of any other stream, river or brook which normally flows throughout the year, or any naturally occurring standing body of water less than 10 acres, prime wetland as designated in accordance with RSA 482-A:15, I or any other wetland greater than 5 acres in area as defined by the [wetlands board] ***department of environmental services***.

37 Reference to Wetlands Board Changed. Amend RSA 227-J:6 to read as follows:

227-J:6 Operations in Wetlands.

I. Pursuant to RSA 482-A no person shall excavate, remove, fill, dredge, or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the [wetlands board] ***department of environmental services***. Failure to comply with these requirements may result in penalties under RSA 482-A.

II. Pursuant to RSA 482-A:3, V, persons who have complied with notice of intent to cut wood requirements under RSA 79:10, and who have filed an appropriate notification of forest management activities having minimum wetlands impact with [the wetlands board and] ***the department of environmental services and the department of resources and economic development***, shall have satisfied the permitting requirements for minimum impact activities.

III. Pursuant to the rules of the [wetlands board] ***department of environmental services***, skid trails, truck roads and culverts, bridges, pole fords, or other crossings on the skid trails or truck roads shall be constructed in accordance with procedures as currently cited in the Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire, published by the department.

38 Reference Changed. Amend RSA 270:71, II to read as follows:

II. The office of state planning[, the wetlands board] and the department of environmental services shall review these rules and make recommendations to the division.

39 New Paragraphs; Definitions Added. Amend RSA 482-A:2 by inserting after paragraph I the following new paragraphs:

I-a. "Council" means the wetlands council established in RSA 21-O:5-a.

I-b. "Department" means the department of environmental services.

40 References Changed. Amend RSA 482-A:3, I-V to read as follows:

I. No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the [wetlands board] ***department***. The permit application together with a detailed plan and a map showing the exact location of the proposed project, along with 4 copies of the permit application, plan and map, shall be submitted to the town or city clerk, accompanied by a filing fee in the form of a check made out by the applicant to the ***state of*** New Hampshire [wetlands board].

The permit application fee shall be \$50 for minimum impact projects. Fees for minor and major projects shall be assessed based on the area of dredge or fill proposed and the number of boat slips requested. The rates shall be \$100 per boat slip and \$0.025 per square foot. At the time the permit application is submitted to the city or town clerk, the applicant shall provide postal receipts or copies, verifying that abutters, as defined in the rules of the [wetlands board] **department**, and except as further provided in said rules, have been notified by certified mail. The postal receipts or copies shall be retained by the municipality. The town or city clerk shall immediately sign the application and forward by certified mail, the application, plan, map and filing fee to the [wetlands board] **department**. The town or city clerk shall then immediately send a copy of the permit application, plan and map to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and may require an administrative fee not to exceed \$10 plus the cost of postage by certified mail. One copy shall remain with the city or town clerk, and shall be made reasonably accessible to the public. The foregoing procedure notwithstanding, applications and fees for projects by agencies of the state may be filed directly with the [wetlands board] **department**, with 4 copies of the application, plan and map filed at the same time with the town or city clerk to be distributed as set forth above.

II.(a) The [wetlands board] **department** shall submit to the governor and council all requests for permits approved by the [board] **department** which meet the definition of major projects located in great ponds or public-owned water bodies under the rules of the [wetlands board] **department** which have been approved by the [board] **department**.

(b) The governor and council shall consider the request for permit transmitted by the [board] **department**. The **governor and council** may approve as transmitted or deny the submitted request. Following action by the governor and council the requests shall be returned to the [board] **department** for permitting, if approved, or filing, if denied.

III. The filing fees collected pursuant to paragraphs I, V(c), XI(h), and XII(c) are appropriated to and shall be expended by the [wetlands board] **department** for paying per diem and expenses of the public members **of the council**, reviewing applications and activities relative to the wetlands of the state, conducting field investigations, and holding public hearings. Such fees shall be held by the treasurer in a nonlapsing fund identified as the wetlands [board] review fund.

IV.(a) The replacement or repair of existing structures in or adjacent to any waters of the state which does not involve excavation, removal, filling, or dredging in any waters or of any bank, flat, marsh, or swamp is exempt from the provisions of this chapter.

(b) Nontidal drainage ditches, culverts, catch basins, and man-made detention ponds that have been legally constructed to collect and convey storm water and spring run-off, and that have been maintained so that wetlands vegetation has not become dominant, may be cleaned out when necessary to preserve their usefulness without a permit from the [wetlands board] **department**. Such drainage facilities may be cleaned out by hand or machine, provided that the facility is neither enlarged nor extended into any area of wetlands [board] jurisdiction **of the department of environmental services**, dredged spoils are deposited in areas outside wetlands [board] jurisdiction **of the department of environmental services**, and wetlands or surface waters outside the limits of the constructed drainage facility are neither disturbed nor degraded.

V.(a) Persons who have complied with notice of intent to cut wood requirements under RSA 79:10, and who have filed an appropriate notice of intent with the [wetlands board] **department** and the department of resources and economic development, shall have satisfied the permitting requirements of this section for minimum impact activities only as defined by rules adopted by the [wetlands board] **commissioner**.

(b) Appropriate notice to the [wetlands board] **department** and the department of resources and economic development shall include the following information:

(1) Name and address of property owner;

(2) Name and address of logger or forester;

(3) Town, tax map, number and lot number of job site; and

(4) A copy of the appropriate United States Geological Survey topographic map, or a copy of the appropriate United States Natural Resources Conservation Service soils map, with the type and location of all wetland and waterbody crossings clearly indicated.

(c) A \$25 filing fee shall accompany the notice to the [wetlands board] **department**. Such fees shall be held in accordance with paragraph III.

(d) The filing of an intent to cut form under RSA 79:10 shall be considered as permission to the [wetlands board] **department** or the department of resources and economic development, or their agents, to enter the property for determining compliance with this chapter.

(e) The certificate issued under RSA 79:10 shall be posted upon receipt. Prior to receipt of such certificate, a copy of the intent to cut form, signed by the appropriate municipal official, shall be available on the job site, and shall be shown to any person who asks to see it.

41 Reference Changed. Amend RSA 482-A:3, VII to read as follows:

VII. No person shall destroy, raze, deface, reduce, alter, build upon or remove any sand or vegetation from any sand dune in this state without a permit from the [wetlands board] **department**; provided, however, that any person may remove sand which blows or drifts onto any lawn, driveway, walkway, parking or storage area, or boat ramp, or which blows or drifts in, on, or around buildings or other structures owned by the person. Upon request of the property owner, the [wetlands board] **department** shall provide a preapplication assessment of any lot of record located in sand dunes.

42 Reference Changed. Amend RSA 482-A:3, X-XII to read as follows:

X. The maximum cash application fee for the New Hampshire department of transportation shall be \$10,000 per application plus provisions for technical or consulting services or a combination of such services as necessary to meet the needs of the [wetlands board] **department**. The [wetlands board] **department** may enter into a memorandum of agreement with the New Hampshire department of transportation to accept equivalent technical or consulting services or a combination of such services in lieu of a portion of their standard application fees.

XI.(a) Small motor mineral dredging shall be limited to activities which are classified as minimum impact under rules adopted by the [wetlands board] **commissioner** under RSA 482-A:11 and which do not exceed the following limits:

(1) Power equipment shall be limited to 5 horsepower.

(2) Suction dredges shall be limited to a single 4-inch diameter intake nozzle.

(3) Sluice and rocker boxes shall be limited to 10 square feet.

(b) Any person who wishes to engage in small motor mineral dredg-

ing shall obtain a permit from the [wetlands board] **department**. A permit application shall be filed directly with the [wetlands board] **department**, and the procedural requirements of RSA 482-A:3, I and RSA 482-A:11, III shall not apply. Any permit issued by the [wetlands board] **department** under this paragraph shall expire at the end of the calendar year in which it is issued. Any person who engages in panning only shall not be required to obtain a permit but shall be subject to rules of the [wetlands board] **department**. Panning shall include those activities associated with the manual search for minerals in a river bed without the use of motorized equipment.

(c) Any person wishing to engage in mineral dredging which in any way exceeds the limits of small motor mineral dredging shall first obtain, in addition to a wetlands [board] permit, a mining permit from the department of resources and economic development pursuant to RSA 12-E.

(d) The [wetlands board] **commissioner** shall adopt rules, under RSA 541-A, relative to:

(1) Small motor mineral dredging and panning.

(2) The issuance of statewide small motor mineral dredging permits.

(3) Any other matters relative to small motor mineral dredging and panning.

(e) The state shall retain the right to prohibit panning and mineral dredging activity at certain times or in certain locations when such activity would be detrimental to the public interest for reasons including, but not limited to, environmental and wildlife protection.

(f) Any person who has obtained a small motor mineral dredging permit from the [wetlands board] **department** pursuant to this paragraph, or any person who intends to engage in any panning activity shall, prior to engaging in any small motor mineral dredging or panning activity, obtain the written permission to engage in such activity from the riverbed landowner on whose property the activity is to be conducted.

(g) The [wetlands board] **department** may enter into a cooperative agreement with the fish and game department relative to enforcement of the provisions of this paragraph.

(h) Application fees shall be \$25 for residents of the state of New Hampshire and \$50 for out-of-state applicants. Fees shall be collected by the [wetlands board] **department** and held in accordance with paragraph III. [Small motor mineral dredging permits shall be valid for a period of one year.]

XII.(a) Persons who construct and maintain recreational trails in accordance with the Trail Administrators Manual published by the department of resources and economic development and who have filed an appropriate notice, as described in subparagraph (b), to construct or maintain such trails with the [wetlands board] **department** and the department of resources and economic development shall have satisfied the permitting requirements of this section for minimum impact activities, as defined by rules adopted by the [wetlands board] **commissioner**.

(b) Appropriate notice to the [wetlands board] **department** and the department of resources and economic development shall include the following information:

(1) Name and address of organization constructing or maintaining the recreational trail.

(2) Name and address of property owner.

(3) Town, tax map number, and lot number of property.

(4) A copy of the appropriate United States Geological Survey topographic map with the type and location of all wetland and waterbody crossings clearly indicated.

(c) A \$25 filing fee shall accompany the notice to the [wetlands board] **department**. Such fees shall be held in accordance with paragraph III.

43 Reference Changed. Amend RSA 482-A:6 to read as follows:

482-A:6 Powers of [Wetlands Board] **Department**.

I. The [wetlands board] **department** may deny the petition or may require the installation of bulkheads, barriers, proper retention or containment structures, or both, to prevent subsequent fill runoff back into waters or other protective measures.

II. To perform its duties under this chapter, it shall be lawful for the [board] **department**, its agents or employees to enter upon any lands in the state.

III. Whenever it is found that a wetlands is at immediate risk from dredging, filling, or other activity in violation of this chapter, the [board] **department** may issue an emergency order in writing requiring the immediate cessation of such activity. Any person to whom such an order is directed shall comply immediately, but may [ask for a rehearing and appeal to the superior court for the county where the land in question is located under the same procedures as are provided for appeals in RSA 677:2-14] **request reconsideration and then appeal as provided in RSA 482-A:10**. [Each appeal shall contain a detailed description of the land involved in the board's order. Service of the appeal shall be made on any member of the board and the superior court shall have the same jurisdiction to dispose of such appeals as is provided in RSA 677:2-14 governing appeals.]

IV. The [wetlands board] **department** may issue an order to any person in violation of this chapter, a rule adopted under this chapter or any condition in a permit issued under this chapter to comply with this chapter, the rule or the permit, and require such remedial measures as may be necessary. Any person to whom such an order is directed may [apply for a rehearing and may appeal to the superior court for the county where the land in question is located under the same procedures as are provided for appeals in RSA 677:2-14] **request reconsideration and then appeal as provided in RSA 482-A:10**. [Each appeal shall contain a detailed description of the land involved in the board's order. Service of the appeal shall be made on any member of the board and the superior court shall have the same jurisdiction to dispose of such appeals as is provided in RSA 677:2-14 governing appeals.]

44 References Changed. Amend RSA 482-A:7-9 to read as follows:

482-A:7 Gifts, Grants or Donations. The [wetlands board] **department** is authorized to solicit and receive any gifts, grants or donations made for the efforts of the [wetlands board as established by RSA 482-A:5] **department under the provisions of this chapter** and to disburse and administer the same through the [division] **department**.

482-A:8 **Public Comment and Hearing**. [The board shall hold a public hearing on proposals under RSA 482-A:3 in accordance with rules adopted by the board, within 60 days of the receipt of said notice, and shall notify by mail the person intending to do such excavating, removing, filling, dredging or altering, the local governing body of the municipality involved, the planning board, if any, the municipal conservation commission, if any, and the members of the board]. **The department shall provide a reasonable opportunity for public comment on**

proposals under RSA 482-A:3 and shall hold a public hearing for projects with significant impact on the resources protected by this chapter or of substantial public interest. The department shall notify by mail, the applicant and the property owner if different, the local governing body of the municipality involved, the planning board, if any, and the municipal conservation commission, if any, of the hearing. The department shall maintain a chronological file of all applications received under RSA 482-A:3, which shall be available for public review during normal business hours. The [requirement of public] hearing **requirement** in this section may not apply to such minor projects and to such minor improvements of the shoreline of those waters subject to the jurisdiction of this chapter as the [board] **department** may by reasonable [general] rule provide[, and as to such projects initial review authority may be delegated to a subcommittee or the staff of the board]. *The hearing requirements of RSA 541-A:30 shall be satisfied by a hearing on reconsideration in accordance with RSA 482-A:10, III.*

482-A:9 Notice to Abutters. Like notice shall be mailed to all known abutting landowners, supplemented by reasonable notice by newspaper publications to those unknown, as may be ordered by the [wetlands board] **department**.

45 Appeals; Damages. RSA 482-A:10 is repealed and reenacted to read as follows:

482-A:10 Appeals.

I. Any person aggrieved by a decision made by the department under RSA 482-A:3 or subject to an order of the department under RSA 482-A:6 may apply for reconsideration by the department, and then may appeal to the wetlands council and to the superior court as provided in this section. A person aggrieved under this section shall include without limitation, the applicant and any person required to be noticed by mail in accordance with RSA 482-A:8 and RSA 482-A:9.

II. A request for reconsideration shall be filed with the department within 20 days of issuance of the department's decision or order. The request for reconsideration shall describe in detail each ground for complaint. No ground not set forth in the request for reconsideration shall be considered by the council, or by the superior court except as provided in paragraph VIII of this section.

III. On reconsideration, the department shall receive and consider any new and additional evidence presented, and shall make findings of fact and rulings of law in support of its decision after reconsideration. The department may hold a public hearing in accordance with its rules. Reconsideration hearings shall not be subject to the requirements of RSA 541-A. Reconsideration hearings shall be noticed in accordance with RSA 482-A:8 and RSA 482-A:9, and the department shall make a record of the proceedings. The department shall grant or deny the application for reconsideration within 30 days of the service of the application or explain in writing to the applicant why the application cannot be acted on and a statement of the time reasonably necessary to act on the application.

IV. An appeal from a decision of the department after reconsideration shall be filed with the wetlands council within 30 days of the department's decision. Filing of the appeal shall be made by certified mail to the chairperson of the council, with a copy sent to the department. An appeal to the council shall contain a detailed description of the land involved in the department's decision and shall set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable.

V. The council on appeal shall hold a non-evidentiary hearing as provided in its rules. The hearing shall be noticed in accordance with RSA 482-A:8 and RSA 482-A:9. The department shall provide the council with its record of decision upon receiving notice of the hearing. The appeal shall be determined upon the record below. The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is unlawful or unreasonable. All findings of the department upon all questions of fact properly before it shall be *prima facie* lawful and reasonable.

VI. On appeal, the council may affirm the decision of the department or may remand to the department with a determination that the decision complained of is unlawful or unreasonable. The council shall specify the factual and legal basis for its determination and shall identify the evidence in the record that supports its decision.

VII. Any party aggrieved by a decision of the council may apply to the council for reconsideration within 20 days of the council's order. The council shall grant or deny the application for reconsideration at its first regularly scheduled meeting after service of the application. The council may grant such application if in its opinion good reason therefor is stated.

VIII. Any person aggrieved by a decision of the council after reconsideration may appeal to the superior court for the county where the land in question is located by petition within 30 days of issuance of such decision. The petition shall set forth each ground upon which the decision is claimed to be unlawful or unreasonable, in whole or in part. No ground not set forth in the application for reconsideration shall be given any consideration by the court unless the court for good cause shown shall allow the appellant to specify additional grounds.

IX. In the case of a remand to the department by the council, the department may accept the council's determination and reissue a decision or order, imposing such conditions as are necessary and consistent with the purposes of this chapter, or may appeal as provided in paragraphs VII and VIII.

X. Any hearing by the superior court upon appeal under this section shall be given priority on the court calendar.

XI. On appeal to the superior court, the burden of proof shall be upon the party seeking to set aside the decision of the council to show that the decision is unlawful or unreasonable. The council's decision shall not be set aside or vacated, except for errors of law, unless the court is persuaded, by a preponderance of the evidence before it, that said decision is unjust or unreasonable.

XII. Any person whose rights may be directly affected by the outcome of the appeal may appear and become a party, or the court may order such persons to be joined as parties as justice may require.

XIII. Upon the filing of an appeal, the clerk of court shall issue an order requiring a certified copy of the record of the appeal to be filed with the court by the council. The record shall consist of the council's decision, the department's record of decision as submitted to the council and the record of the hearing before the council.

XIV. All evidence transferred by the council shall be considered by the court regardless of any technical rule which might have rendered the evidence inadmissible if originally offered in the trial of an action at law. The court may receive and consider such additional evidence as would be permissible under RSA 677:10.

XV. The final judgment upon every appeal shall be a decree dismissing the appeal, or vacating the decision complained of in whole or in part,

as the case may be; but, in case such decision is wholly or partly vacated, the court may also, in its discretion, remand the matter to the council for such further proceedings, not inconsistent with the decree, as justice may require.

XVI. An order of court to send up the record may be complied with by filing either the original papers or duly certified copies thereof, or of such portions thereof as the order may specify, together with a certified statement of such other facts as show the grounds of the action appealed from.

XVII. The court may take evidence or appoint a referee to take such evidence as it may direct and report the same with the referee's findings of fact and conclusions of law.

XVIII. If a permit is granted with respect to any activity proposed to be undertaken in or adjacent to a prime wetland as mapped, designated, and filed pursuant to RSA 482-A:15, the conservation commission or local governing body may appeal said decision to the superior court in the manner prescribed in this section. The filing of a request for reconsideration shall automatically stay the effectiveness of the department's decision relating to said prime wetland. Said stay shall remain in force until the department has issued its decision after reconsideration.

46 New Section; Damages. Amend RSA 482-A by inserting after section 10 the following new section:

482-A:10-a Damages.

I. If, upon appeal of the landowner, the superior court determines that the decision appealed from so exceeds the bounds of the police power as to constitute the equivalent of taking without compensation and that the land as so regulated meets the public purpose standards of this chapter, and if such ruling is affirmed on appeal or becomes the law of the trial by failure of the state to appeal, the superior court shall then proceed to the assessment of the landowner's damages. Unless the department, at this stage, consents to the reversal or modification of its decision by the superior court, that court shall first determine all questions of land title, after notice to all persons interested in the land, including notice by publication to any unknown owners, and then shall assess the damages of the landowner or landowners proceeding as provided in RSA 482:35-38, inclusive, and RSA 498-A:27, and may enter judgment against the state accordingly. The interest acquired by the state by virtue of such proceedings shall be a perpetual negative easement that the privately-owned land or interest in the land described in the proceedings shall not thereafter be excavated, removed, filled, dredged, canalized or ditched, subject to any such reasonable reservations to the landowner as the department may have stipulated to prior to the assessment of damages. The state may, in the alternative, purchase the land or interest in the land in fee simple or other acceptable title, or subject to acceptable reservations and exceptions, by agreement with the landowner. To satisfy any judgment or purchase agreement under this section, the governor and council, in their discretion, may draw their warrant on the marine fisheries fund, the fish and game fund, any other available appropriation for such purpose, or on any money in the treasury not otherwise appropriated, or any combination of such funds, as they may determine to be just and reasonable, or, in the alternative, they may certify a judgment to the next session of the general court for the passage of an appropriation of money sufficient to satisfy the same. The department may, in the name of the state, accept gifts of land or interests in land for the purposes of this chapter.

II. The use of the marine fisheries fund or the fish and game fund under paragraph I shall require a finding that the expenditure will be of substantial benefit to marine fisheries or to fish and wildlife, as the case may be, and the governor and council shall request the prior opinion of the fish and game commission in each such case.

47 References Changed. Amend RSA 482-A:11-13 to read as follows:
482-A:11 Administrative Provisions.

I. The [board] **commissioner** shall adopt reasonable rules, pursuant to the rulemaking provisions of RSA 541-A, to [govern its proceedings and otherwise] implement the purposes of this chapter.

II. Decisions of the [board] **department or council** under this chapter shall be consistent with the purposes of this chapter as set forth in RSA 482-A:1. Before granting a permit under this chapter, the [board] **department** may require reasonable proof of ownership by a private landowner-applicant. If a permit is granted, the decision of the [board] **department** may contain reasonable conditions designed to protect the public good. No permit to dredge or fill shall be granted if it shall infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners.

III. Upon written notification to the [board] **department** by a municipal conservation commission that it intends to investigate any notice received by it pursuant to RSA 482-A:3, the [board] **department** shall suspend action upon such notice and shall not make its decision on the notice of a minor project nor hold a hearing on it if a major project until it has received and acknowledged receipt of a written report from [said] **such** commission, or until 40 days from the date of filing with the municipal clerk of [said] **such** notice, whichever occurs earlier, subject to an extension as permitted by the [board] **department**. In connection with any local investigation, a conservation commission may hold a public informational meeting or a public hearing, the record of which shall be made a part of the record of the [board] **department**. If a conservation commission makes a recommendation to the [board] **department** in its report, the [board] **department** shall specifically consider such recommendation and shall make written findings with respect to each issue raised in such report which is contrary to the decision of the [board] **department**. If notification by a local conservation commission pursuant to this paragraph is not received by the [board] **department** within 14 days following the date the notice is filed with the municipal clerk, the [board] **department** shall not suspend its normal action, but shall proceed as if no notification has been made.

IV. The board shall make written findings of fact in support of all decisions made on applications involving projects other than minor projects and improvements as defined pursuant to RSA 482-A:8.

V. **IV.** The [board] **department** shall not grant a permit with respect to any activity proposed to be undertaken in or adjacent to an area mapped, designated and filed as a prime wetland pursuant to RSA 482-A:15 unless the [board] **department** first notifies the local governing body, the planning board, if any, and the conservation commission, if any, in the municipality within which the wetlands lie, either in whole or in part, of its decision. Any such permit shall not be issued unless the [board] **department** is able, specifically, to find [on the basis of] clear and convincing evidence [in the record of the proceedings] **on the basis of all information considered by the department**, and after public hearing, that the proposed activity, either alone or in conjunction with other human activity, will not result in the significant net loss of any of the values set forth in RSA 482-A:1. This paragraph shall not be con-

strued so as to relieve the [board] **department** of its statutory obligations under this chapter to protect wetlands not so mapped and designated.

[VI.] V. Notwithstanding any rules adopted by the [board] **commissioner** defining minor projects, a series of minor projects undertaken by a single developer or several developers over a period of 5 years or less may, when considered in the aggregate, amount to a major project in the opinion of the [board] **department**; all such related projects shall be subject to a public hearing as provided in RSA 482-A:8. A series of minor projects shall be considered in the aggregate if they abut or if they are a part of an overall scheme of development or are otherwise consistent parts of an eventual whole.

[VII.] VI. The [board] **commissioner** may adopt rules pursuant to RSA 541-A establishing an expedited application and permitting process for certain minimum **and minor** impact projects[, under which the department of environmental services may issue such permits without board action]. The provisions of RSA 482-A:3, I and paragraph III of this section shall apply.

482-A:12 Posting of Permits and Reports of Violations. Project approval by the [board] **department** shall be in the form of a permit, a copy of which the applicant shall post in a secured manner in a prominent place at the site of the approved project. The [board] **department** shall mail a copy of such permit to the local governing body of the municipality where the project is located. Any person proceeding without a posted permit shall be in violation of this chapter. All state, county and local law enforcement officers are directed to be watchful for violations of the provisions of this chapter and to report all suspected violations to the [board] **department**.

482-A:13 Administrative Fine. The [wetlands board] **commissioner**, after notice and hearing in accordance with the procedures set forth in RSA 541-A, is empowered to impose an administrative fine of up to \$2,000 for each offense upon any person who violates any provision of this chapter. This fine is appealable under RSA 541. Any administrative fine imposed under this section will not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines levied pursuant to this [paragraph] **section** shall be placed in the nonlapsing fund authorized in RSA 482-A:14, III.

48 References Changed. Amend RSA 482-A:15-18 to read as follows:
482-A:15 Local Option; Prime Wetlands.

I. Any municipality, by its conservation commission, or, in the absence of a conservation commission, the planning board, or, in the absence of a planning board, the local governing body, may undertake to designate, map and document prime wetlands lying within its boundaries, or if such areas lie only partly within its boundaries, then that portion lying within its boundaries. For the purposes of this chapter, "prime wetlands" shall mean any areas falling within the jurisdictional definitions of RSA 482-A:3 and 482-A:4 that possess one or more of the values set forth in RSA 482-A:1 and that, because of their size, unspoiled character, fragile condition or other relevant factors, make them of substantial significance. Such maps or designations, or both, shall be in such form and to such scale, and shall be based upon such criteria, as are established by the [board] **commissioner** through rules adopted pursuant to RSA [482-A:11] **541-A**.

II. Any municipal conservation commission or that local body which has mapped and designated prime wetlands in accordance with para-

graph I may, after approval by any town or city council meeting, file such maps and designations with the [board] **department**, which shall accept and maintain them and provide public access to such maps during regular business hours. The procedure for acceptance by the local legislative body of any prime wetland designations as provided in paragraph I shall be the same as set forth in RSA 675:2 or 675:3, as applicable.

482-A:16 Artificial Fill; Exemptions. No person shall place or cause to be placed any fill in any area below the mean high water level of any public waters or below the artificially-created high water level of publicly-owned bodies of water in this state with the intent or with the effect of creating or forming filled land adjacent to such bodies of water, except as provided in this subdivision. For the purposes of this subdivision, "public waters" means all natural ponds of more than 10 acres, and "publicly-owned bodies of water" or "public-owned water bodies" means those bodies of water whose artificial high water level is maintained by the state's exercise of its flowage rights on these ponds. The provisions of this subdivision shall not apply to such minor improvements of shorelines as the [board] **department**, by rules adopted *by the commissioner* under RSA 541-A, may allow.

482-A:17 Grant of Right. The governor and council, upon petition and only upon the recommendation of the [wetlands board] **department**, may, for just consideration, grant to an owner of shoreline on public waters the right to place fill in the bed of such pond before [his] *the owner's* shoreline. Every petition to place fill in the bed of public waters shall be filed with the [wetlands board] **department**. The [board] **department**, after 30 days' notice to abutters, to the local governing body of the municipality in which the property is situated, and to the department of health and human services, shall hold a public hearing [at which a majority of the members of the wetlands board shall be present]. Notice of the hearing shall be published twice in 2 different weeks, the last publication to be 7 days before the hearing, in one newspaper of general circulation throughout the state and another newspaper of general circulation in the municipality, and notice posted in 2 public places in the municipality, and upon appropriate investigation shall make its recommendations to the governor and council with regard to such petition. If the [board] **department** recommends that the petition be granted, in whole or in part, such recommendation shall include appropriate specifications and conditions necessary to the protection of public rights and to the protection of the rights and privileges of persons owning land in the vicinity of the area to be filled by the petitioner. The grant of the governor and council shall be evidenced by an instrument in writing, executed by the governor and council, attested by the secretary of state, and recorded in the county where the right is to be exercised. Land created by fill in accordance with the grant of the governor and council shall belong to the owner of the natural shoreline as if it were formed by natural accretion. The owner of a shoreline on a public-owned water body may petition the [wetlands board] **department** for the right to place fill below the artificially-created high water level of a public-owned water body to the extent that the flowage rights owned by the state allow.

482-A:18 Procedure for Removal of Fill. If any person places fill in the bed of public waters or below the artificially-created high water level of public-owned water bodies except as provided in this subdivision, [he] *such person* shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. Any person may be compelled to remove the same by the superior court upon a petition brought by the attorney general [at the request of the wetlands board].

49 Reference Changed. Amend RSA 482-A:20 to read as follows:

482-A:20 Costs for Hearing. The petitioner for a right to place fill in public waters shall make a deposit to the [wetlands board] **department** of \$50 with each such petition. This payment shall be for expenses of publication, mailing and posting of notices by the [board] **department** and for the expenses of hiring a hearing site, if a hearing outside of Concord is necessary. If [said] **the** expenses amount to more than \$50, the [board] **department** shall require the petitioner to pay the additional amount before it sends its recommendations to the governor and council with regard to the petition.

50 Reference Changed. Amend RSA 482-A:22-23 to read as follows:

482-A:22 Grant of Right. The governor and council, upon petition and upon the recommendation of the [wetlands board] **department**, may, for just consideration, grant to an owner of a shoreline on public waters the right to excavate, remove, or dredge any bank, flat, marsh, swamp or lake bed before [his] **the owner's** shoreline. Every petition to excavate or dredge said areas shall be filed with the [wetlands board] **department**. The [board] **department**, after 30 days' notice to abutters, the local governing body of the municipality in which the property is situate, and the department of health and human services shall hold a public hearing [at which a majority of the members of the wetlands board shall be present]. Notice of the hearing shall be published twice in 2 different weeks, the last publication to be 7 days before the hearing, in one newspaper of general circulation throughout the state and another newspaper of general circulation in the municipality. The notice shall also be posted in 2 public places in the municipality. Upon appropriate investigation the [board] **department** shall make its recommendations to the governor and council with regard to such petition. If the [board] **department** recommends that the petition be granted, in whole or in part, such recommendation shall include appropriate specifications and conditions necessary to the protection of public rights and to the protection of the rights and privileges of persons owning land in the vicinity of the area to be excavated or dredged by the petitioner.

482-A:23 Penalty. Any person who violates any provision of this subdivision shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. Any person may be compelled to return said land to its original condition by the superior court upon a petition brought by the attorney general [at the request of the wetlands board].

51 Reference Changed. Amend RSA 482-A:25 to read as follows:

482-A:25 Hearing Costs. The petitioner shall make a deposit of \$50 with each petition to pay for the expenses of publication, mailing, and posting of notices, and for the expenses of hiring a hearing site, if a hearing outside of Concord is necessary. If these expenses are more than \$50, the [board] **department** shall require the petitioner to pay the additional expenses before it sends its recommendations to the governor and council with regard to the petition.

52 Reference Changed. Amend RSA 483-B:9, II(c) to read as follows:

(c) A water dependent structure, meaning one which is a dock, wharf, pier, breakwater, or other similar structure, or any part thereof, built over, on, or in the waters of the state, shall be constructed only as approved by the [wetlands board] **department**, pursuant to RSA 482-A.

53 Reference Changed. Amend RSA 483-B:9, V(a)(2)(E) to read as follows:

(E) Stumps and their root systems which are located within 50 feet of the reference line shall be left intact in the ground, unless removal is specifically approved by the [wetlands board] **department**, pursuant to RSA 482-A.

54 Contingency. If HB 1314 of the 1996 regular session becomes law, sections 34-53 of this act shall take effect 60 days after its passage, and section 1, 4-6, 8-11, 13-21, 23, 24 and 26-29 of this act shall not take effect. If HB 1314 does not become law, sections 1, 4-6, 8-11, 13-21, 23, 24 and 26-29 of this act shall take effect 60 days after its passage, and section 34-53 shall not take effect.

55 Effective Date.

I. Sections 34-53 and 1, 4-6, 8-11, 13-21, 23, 24 and 26-29 of this act shall take effect as provided in section 54 of this act.

II. The remainder of this act shall take effect 60 days after its passage.

Senator Currier moved adoption.

Adopted.

6162

Enrolled Bill Amendment to HB 1199

Amend RSA 216-F:5, II as inserted by section 2 of the bill by replacing lines 2-3 with the following:

II. OHRV trails, *the New Hampshire Heritage Trail*, and trail planning and development shall be [a] specific [item] *items* on the agenda of this

Amend the bill by replacing section 5 with the following:

5 New Paragraphs; Subcommittee on New Hampshire Heritage Trail Added. Amend RSA 216-F:5 by inserting after paragraph III the following new paragraphs:

IV. There shall be a standing subcommittee of this advisory committee which shall work on the planning, development and implementation of the New Hampshire Heritage Trail.

V. The subcommittee shall consist of the following:

(a) Any or all of the committee members as provided in paragraph I.

(b) Representatives from the following organizations appointed by the organization:

(1) Merrimack River Watershed Council.

(2) Pemigewasset River Council.

(3) Connecticut River Valley Resource Commission.

(4) Nashua Regional Planning Commission.

(5) New Hampshire Association of Conservation Commissions.

(6) North Country Council.

(7) Lakes Region Planning Commission.

(8) Southern Regional Planning Commission.

(9) Central Regional Planning Commission.

(c) The following departments or divisions of the state of New Hampshire:

(1) Department of health and human services, representing child, youth, and family services.

(2) Division of historical resources.

(3) Department of agriculture, markets, and food.

(4) Department of environmental services.

(d) Three at-large members representing affected communities.

(e) One member of the house of representatives, appointed by the speaker.

(f) One member of the senate, appointed by the president of the senate.

6 Contingency. If HB 1314 of the 1996 regular session becomes law, section 5 of this act shall take effect 60 days after its passage, and section 3 of this act shall not take effect. If HB 1314 does not become law, section 3 of this act shall take effect 60 days after its passage, and section 5 of this act shall not take effect.

7 Effective Date.

I. Sections 3 and 5 of this act shall take effect as provided in section 6 of this act.

II. The remainder of this act shall take effect 60 days after its passage.

Senator Currier moved adoption.

Adopted.

6160

Enrolled Bill Amendment to HB 1572-LOCAL

Amend RSA 149-M:33, IV(b)(1) as inserted by section 2 of the bill by replacing line 6 with the following:
with RSA 149-M:34, III.

Amend RSA 149-M:33, IV(b)(2) as inserted by section 2 of the bill by replacing line 4 with the following:

or packaging component is in compliance with RSA 149-M:34, III.

Amend RSA 149-M:36, I as inserted by section 2 of the bill by replacing line 4 with the following:

compliance is achieved under RSA 149-M:34, the certificate shall state the

Amend the bill by replacing section 4 with the following:

4 Reference Deleted. Amend RSA 4-C:1, II(h) to read as follows:

(h) Maintain a current list of contractors and facilities approved by the office for the collection and disposal of motor vehicle waste, for distribution to towns [under RSA 149-M:13-a, II].

Amend RSA 483:9-aa, VII(b) as inserted by section 19 of the bill by replacing line 5 with the following:

the normal high watermark of a designated rural-community river or segment;

Amend RSA 483:9-b, VII(b) as inserted by section 21 of the bill by replacing line 5 with the following:

the normal high watermark of a designated community river or segment;

Amend the bill by replacing section 27 with the following:

27 Solid Waste Management; Waste Reduction Goal; Changes Required by the Reorganization of the Department of Environmental Services. Amend RSA 149-M:2, II to read as follows:

II. In exercising any and all powers conferred upon the [division of waste management] **department** under this chapter, the [division] **department** shall use and consider criteria relevant to the waste reduction goal and disposal hierarchy established in RSA 149-M:2 and 149-M:3. The [division] **department** shall not take any action relative to the 40 percent weight reduction goal which causes the municipalities organized under RSA 53-A and 1986, 139 or RSA 53-B to violate or incur penalties under legal obligations existing on June 26, 1990.

28 Solid Waste Management; Changes Required by the Reorganization of the Department of Environmental Services. Amend RSA 149-M:4 through 149-M:12 to read as follows:

149-M:4 Definitions. In this chapter:

I. "Abutter" means any person who owns property adjacent to, or across a road, railroad, or stream from the property on which a solid waste facility may be permitted.

II. "Approved facility" means a facility with a valid permit from the [division] **department**.

III. "Commissioner" means the commissioner of the department of environmental services.

IV. "Compost" means a stable, humus-like substance which is derived from a process involving the biological decomposition of any readily biodegradable material, such as animal manure, garbage, yard waste, septage, sludge, or other organic solid wastes, and which can be beneficially re-used for land application.

V. "Department" means the department of environmental services.

[VI. "Director" means the director of the division of waste management.

VII.] VI. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, incineration, or placing of any solid waste into or onto any land or water with the possible result that such solid waste or any constituent of it may enter the environment, be emitted into the air, or be discharged into any waters, including groundwater.

[VIII.] VII. "District" means a solid waste management district established under RSA 149-M:24.

[IX.] VIII. "District plan" means the plan developed for waste management within a district, and approved by the [division] **department**.

[X. "Division" means the division of waste management.

XI.] IX. "Facility" means a location, system, or physical structure for the collection, separation, storage, transfer, processing, treatment, or disposal of solid waste.

[XII.] X. "Hearing" means the opportunity for the submission of written or oral comments, or both.

[XIII.] XI. "Manure" means animal feces and urine with natural organic bedding materials such as hay, sawdust, straw, or wood chips, but exclusive of human waste.

[XIV.] XII. "Order" means an official written notice requiring compliance with a statute, rule, or permit.

[XV.] XIII. "Out-of-state solid waste" means solid waste generated or originating outside the borders of the state, but not including solid waste generated or originating from communities participating in cooperative agreements authorized by RSA 53-D.

[XVI.] XIV. "Permit" means an authorization from the [division] **department** for the construction and operation of a facility.

[XVII.] XV. "Person" means any individual; business entity, including a trust, firm, joint stock company, corporation (including a government corporation); partnership; association; government agency; or political subdivision of the state.

[XVIII.] XVI. "Private facility" means one whose permit is held by a person other than a government unit or agency or political subdivision of the state.

[XIX.] XVII. "Public benefit" means the protection of the health, economy, and natural environment of the state of New Hampshire consistent with RSA 149-M:11.

[XX.] XVIII. "Public facility" means one whose permit is held by a town or other governmental unit or agency or political subdivision of the state, or a combination thereof.

[XXI.] XIX. "Recyclable materials" means materials that can be used to produce marketable goods, including but not limited to separated clear and colored glass, aluminum, ferrous and nonferrous metals, plastics, corrugated cardboard, motor vehicle batteries, tires from motor vehicles, and paper.

[XXII.] **XX.** "Recycling" means the collection, storage, processing, and redistribution of recyclable materials.

[XXIII.] **XXI.** "Refuse" means and includes any waste product, solid or having the character of a solid rather than a liquid in that it will not flow readily without additional liquid, and which is composed wholly or partly of such materials as garbage, swill, sweepings, cleaning, trash, rubbish, litter, industrial or domestic solid wastes; organic wastes or residue of animals sold as meat; fruit, vegetable or animal matter from kitchens, dining rooms, markets, food establishments or any places dealing in or handling meat, fowl, fruits, grain or vegetables; offal, animal excretal, or the carcasses of animals; brick, plaster or other waste matter resulting from the demolition, alteration, or construction of buildings or structures; or accumulated waste material, cans, containers, tires, junk, or other such substances which may become a nuisance.

[XXIV.] **XXII.** "Solid waste" means any matter consisting of putrescible material, refuse, residue from an air pollution control facility, and other discarded or abandoned material. It includes solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. For purposes of this chapter, it does not include hazardous waste as defined in RSA 147-A:2; solid or dissolved materials in irrigation return flows; cut or uprooted tree stumps buried on-site with local approval if required, provided that such burial locations are not located within 75 feet of any drinking water supply; municipal and industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended; source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended; or septage or sludge as defined in RSA 485-A:2, IX-a and XI-a.

[XXV.] **XXIII.** "Solid waste management" means the systematic administration of activities for the collection, separation, processing, treatment, transportation, transfer, storage, recovery, and disposal of solid waste.

[XXVI.] **XXIV.** "Source reduction" means changing industrial processes, technologies, and product components with the specific objective of reducing the amount or toxicity of waste at the source.

[XXVII.] **XXV.** "Special waste" means any matter consisting of medical or infectious wastes.

[XXVIII.] **XXVI.** "State plan" means the state solid waste management plan developed under RSA 149-M:29.

[XXIX.] **XXVII.** "Town" means town, city, unincorporated town, and unorganized place.

149-M:5 Administration and Enforcement.

I. The [division] **department** shall administer and enforce this chapter. The [division] **department** is hereby named as the state agency for planning and regulating solid waste management.

II. The responsibility and authority vested in the division under this chapter shall not affect the responsibilities and authority vested in the division of air resources or in the division of water supply and pollution control.

III. The director shall be the head of the division and shall be responsible for administering this chapter.]

149-M:6 Responsibilities. The [division] **department** shall have the responsibility and authority to:

I. Administer and enforce this chapter, and all orders and permits issued and rules adopted under it.

II. Establish solid waste management policies and goals consistent with the provisions of RSA 149-M:1-3.

III. Regulate facilities through administration of a permit system.

IV. Enter, at all reasonable times, in or upon any private or public property, except private residences, to:

(a) Inspect any facility; or

(b) Investigate any condition which is believed to be in violation either of this chapter or of any of the rules adopted or orders issued under it, or which presents a substantial threat to human health or the environment.

V. Hold hearings, issue notices of hearings, and take testimony.

VI. Prepare the state solid waste plan.

VII. Provide technical assistance and information to citizens, towns, and districts.

VIII. Review in order to approve or require modification of town or district solid waste plans.

IX. Administer grants or other funds to carry out this chapter.

X. Consult, cooperate, or contract with other state agencies responsible for solid waste issues, with interstate and federal agencies, with New Hampshire nonprofit recycling organizations, and with other affected groups.

XI. Assess a surcharge on the disposal of out-of-state solid waste in the amount of \$1 per ton, which shall be assessed against the person transporting the out-of-state solid waste to the facility and not assessed against the facility. The surcharge shall be assessed and collected only with respect to the first point of disposal, processing, or treatment within this state. The proceeds shall be used by the [division] **department** to reduce and offset general fund expenditures for solid waste management.

XII. Determine whether the taking of land by eminent domain is necessary and appropriate and to order the initiation of such proceedings.

XIII. Establish and administer a certification program for solid waste operators which shall include training courses, and may include testing. The registration fee for any course shall not exceed \$50 per attendee, and shall be deposited in the nonlapsing revolving fund established in RSA 21-O:1-a.

XIV. Conduct any other activity for the purpose of administering this chapter.

149-M:7 Rulemaking. The commissioner shall have the responsibility and authority to adopt rules, under RSA 541-A, relative to this chapter, including rules relative to:

I. Criteria for approving town and district solid waste plans.

II. Criteria for all types of facilities, including standards for the proper receipt, reclamation, or disposal of separated motor vehicle wastes.

III. Administration of a permit system, including the terms and conditions under which the [division] **department** shall issue, modify, suspend, revoke, deny, approve, or transfer permits required by this chapter.

IV. A schedule of permit fees.

V. Standards for granting any exemptions or notice waivers from RSA 149-M:9.

VI. Administration of a solid waste facility operator training program pursuant to RSA 149-M:9, VI.

VII. Administration of and standards for the assessment and collection of the out-of-state solid waste surcharge pursuant to RSA 149-M:6, XI.

VIII. Standards and procedures for the treatment and disposal of special waste.

IX. Administrative fines as provided in RSA 149-M:16.

X. A schedule of administrative fines which may be imposed under this section for violation of this chapter as provided in paragraph IX.

XI. Procedures for notice and hearing prior to the imposition of an administrative fine.

XII. Administration of the cleanup of waste sites provided for in RSA 149-M:30 and the aid to municipalities program provided in RSA 149-M:41 through 50.

XIII. Toxics reduction provided in RSA 149-M:32-40.

XIV. Establish minimum standards for closing all solid waste facilities according to type of waste disposed of, and establish state closure guidelines for all facility owners and operators which shall include, but not be limited to, monitoring, restoration, and correction and compliance procedures which may be necessary in the maintenance of a closed land-fill facility.

XV. Such other rules as are deemed necessary to implement the provisions of this chapter.

149-M:8 Appeals. Administrative appeals from decisions of the [director] **department** made under the provisions of this chapter shall be heard by the waste management council under RSA 21-O:9, V.

149-M:9 Permit Required.

I. No person shall construct, operate, or initiate closure of a public or private facility without first obtaining a permit from the [division] **department**. However, no permit shall be required for hauling or storing manure, if used as fertilizer.

II. It shall be unlawful to transport solid waste to, or to dispose of solid waste at, any facility other than an approved facility.

III. Applications for permits shall be upon such forms and shall include such information as the [division] **department** requires by rules adopted under RSA 149-M:7. The application information shall include, but not be limited to, a performance history of the applicant and of its officers and directors relative to the operation, financial security, and ownership of all facilities owned or operated by the applicant. Whenever requested by the [division] **department**, the attorney general shall conduct a background investigation of the performance history and criminal record of the applicant and of its officers and directors, if any, and make a report to the [division] **department**. The cost of any investigation under this paragraph shall be borne by the applicant. The applicant shall also demonstrate that the proposed facility provides a substantial public benefit pursuant to RSA 149-M:11.

IV. Each facility seeking a permit shall submit evidence that the facility includes separate provisions for the collection, reclamation, and disposal of motor vehicle waste.

V. As a condition for any permit, the [division] **department** may require payment of a reasonable fee, set by rules adopted under RSA 149-M:7. Such funds shall be used by the [division] **department** for the purposes of this chapter.

VI. No person shall operate a public or private facility who is not certified by the [division] **department**.

VII. A permit issued by the [division] **department** for a facility shall not eliminate the need to comply with all lawful and applicable local ordinances, codes, and regulations that are consistent with a district plan.

VIII. The [division] **department** shall act upon each permit application within a reasonable period of time. Prior to such action, the [division] **department** shall provide notice of the application by publication in at least one newspaper of general circulation in the community and an opportunity for hearing to interested persons. The applicant shall notify abutters of the public hearing in writing by certified mail, return receipt requested. The requirement of public notice and hearing shall apply at the discretion of the [division] **department** to facilities or activities that will have an insignificant effect on environmental quality as defined by rule under RSA 149-M:7.

IX. The [division] **department** may deny a permit application under this section to a person if any of the following applies:

(a) The person fails to demonstrate sufficient reliability, expertise, integrity, and competence to operate a solid waste facility.

(b) The person has been convicted of, or pled guilty or no contest to, a felony in any state or federal court during the 5 years before the date of the permit application.

(c) In the case of a corporation or business entity, if any of its officers, directors, partners, key employees or persons or business entities holding 10 percent or more of its equity or debt liability has been convicted of, or pled guilty or no contest to, a felony in any state or federal court during the 5 years before the date of the permit application.

X. The [division] **department** shall not issue a permit for a solid waste facility unless the facility meets the terms and conditions required in rules adopted by the commissioner. These terms and conditions include, but are not limited to, monitoring, contingency plans, closure, and evidence of financial responsibility in the amount set by the [division] **department** after consultation with the commissioner of insurance. This amount shall be whatever is necessary to:

(a) Protect the public health and welfare and the environment; and

(b) Insure that appropriate measures will be taken to prevent present and future damage to the public health and safety or to the environment, in the event that the operations at the facility are abandoned, interrupted, or stopped.

XI. All permits shall be continuous in duration, but may be suspended or revoked for cause as provided in this chapter.

XII. No permit issued by the [division] **department** under this section shall be transferred by the permittee to any other person without the prior written approval of the [division] **department**. The following shall apply:

(a) Applications for the transfer of permits shall be filed by the person to whom such permit is to be transferred upon such forms and shall include such information as the [division] **department** requires by rules adopted under RSA 149-M:7. The application information shall include, but not be limited to, a performance history of the applicant and of its officers and directors relative to the operation, financial security, and ownership of all facilities owned or operated by the applicant. Whenever requested by the [division] **department**, the attorney general shall conduct a background investigation of the performance history and criminal record of the applicant and of its officers and directors, if any, and make a report to the [division] **department**. The applicant shall also submit a statement that the proposed facility is consistent with the provisions of a district plan. The cost of any investigation under this paragraph shall be borne by the applicant.

(b) The applicant shall notify abutters of any application to transfer a permit under this section. The [division] **department** shall receive written comments from abutters on such application for the period of 30 days following notification of the filing of the application. The [division] **department**, at the discretion of the [director] **commissioner**, shall hold a public hearing no later than 30 days prior to making any final decision on an application to transfer a permit under this section. Notice of such public hearing shall be published in a newspaper of local circulation within the region of the public or private solid waste facility at least 2 weeks prior to such public hearing.

149-M:10 Disclosure of Ownership.

I. Any application for a permit under RSA 149-M:9 shall be signed under oath by a representative of the applicant and shall contain the following information:

(a) Name and address of the applicant.

(b) If the applicant is a corporation, the state of incorporation, the address of its principal place of business, and the names and addresses of its directors, officers, and shareholders; if the applicant is a partnership, the state of formation, the address of its principal place of business, and the names and addresses of its partners, whether general or limited; and if the applicant is any other kind of association, the state of formation, the address of its principal place of business, and the names and addresses of its principals, members or participants.

(c) The exact location where the applicant intends to conduct the business for which it is seeking the permit.

(d) Such financial information as the [division] **department** may require under RSA 149-M:9.

II. All commercial solid waste haulers and municipalities holding a permit under RSA 149-M shall cause trash collection containers within their possession or control to be prominently marked with an identification name or logo.

149-M:11 Public Benefit Requirement.

I. The general court finds and declares as follows:

(a) It is responsible to provide for the solid waste management need of the state and its citizens.

(b) In order to provide for these needs, it must ensure that adequate capacity exists within the state to accommodate the solid waste generated within the borders of the state.

(c) Facilities necessary to meet state solid waste capacity needs must be designed and operated in a manner which will protect the public health and the state's natural environment.

(d) An integrated system of solid waste management requires a variety of types of facilities designed to accommodate the entire solid waste stream, including materials which can be recycled, recovered or reused, materials which can be composted, and residual materials which must be disposed of permanently.

(e) The enactment of statutes to address the needs identified in this section is an exercise of the police power granted to the general court under part II, article 5 of the New Hampshire Constitution.

II. The general court declares that it is the purpose of this chapter to ensure benefit to the citizens of New Hampshire by providing for solid waste management options which will meet the capacity needs of the state while minimizing adverse environmental, public health and long-term economic impacts.

III. The [division] **department** shall determine whether a proposed solid waste facility provides a substantial public benefit based upon the following criteria:

(a) The short- and long-term need for a solid waste facility of the proposed type, size, and location to provide capacity to accommodate solid waste generated within the borders of New Hampshire, which capacity need shall be identified as provided in paragraph V.

(b) The ability of the proposed facility to assist the state in achieving the implementation of the hierarchy and goals under RSA 149-M:2 and 149-M:3.

(c) The ability of the proposed facility to assist in achieving the goals of the state solid waste management plan, and one or more solid waste management plans submitted to and approved by the [division] **department** under RSA 149-M:24 and 149-M:25.

IV. The [division] **department** shall also consider as part of its public benefit determination:

(a) The concerns of the citizens and governing bodies of the host municipality, county, and district and other affected persons. For any proposed solid waste facility, including transfer stations, designed to accommodate in excess of 30 tons of solid waste per day, the [division] **department** shall hold at least one public hearing in the host municipality, or in the case of an unincorporated town or unorganized place in the host county, in order to take testimony to identify those concerns.

(b) The economic viability of the proposed facility, including but not limited to, its ability to secure financing.

V. In order to determine the state's solid waste capacity need, the [division] **department** shall:

(a) Project, as necessary, the amount of solid waste which will be generated within the borders of New Hampshire for a 20-year planning period. In making these projections the [division] **department** shall assume that all unlined landfill capacity within the state is no longer available to receive solid waste.

(b) Identify the types of solid waste which can be managed according to each of the methods listed under RSA 149-M:3 and determine which such types will be received by the proposed facility.

(c) Identify, according to type of solid waste received, all permitted facilities operating in the state on the date a determination is made under this section.

(d) Identify any shortfall in the capacity of existing facilities to accommodate the type of solid waste to be received at the proposed facility for 20 years from the date a determination is made under this section. If such a shortfall is identified, a capacity need for the proposed type of facility shall be deemed to exist to the extent that the proposed facility satisfies that need.

VI. All applicants under this chapter shall provide any information requested by the [division] **department**. If an applicant declares that any information requested under this section should be considered exempt under RSA 91-A:5, IV, the attorney general shall determine the reasonableness of such declaration and, if the attorney general agrees, shall direct the [division] **department** to treat it as confidential information which shall be considered exempt under RSA 91-A:5, IV.

VII. Any proposed solid waste facility to be owned and controlled by a solid waste district, or a member municipality on behalf of its solid waste district, shall be deemed to fulfill the requirements of subparagraph III(a), provided that it is built within the district and shall serve

only the capacity needs of that district. Any permit issued for a facility which fulfills the public benefit requirement by relying on this paragraph shall state that the facility is limited to receiving solid waste generated within that district.

VIII. Each applicant for a solid water permit under this chapter shall have the burden of demonstrating that a proposed solid waste facility provides a public benefit by showing how the proposed facility satisfies the criteria listed under paragraph III. Such demonstration shall be included as part of each application for a solid waste permit.

IX. If the [division] **department** determines that an applicant has failed to demonstrate that it satisfies the criteria listed under paragraph III, it shall notify the applicant in writing that its application has been denied, and provide a written explanation of the reasons for that determination.

X. If the [division] **department** determines that an applicant has demonstrated that it satisfies the criteria listed under paragraph III, it shall state that determination in any permit issued.

XI. Facilities permitted under this chapter shall be operated so as to provide a substantial public benefit consistent with the information submitted as part of the application concerning how the facility accommodates New Hampshire capacity needs. If a permittee cannot demonstrate consistency with information submitted in its permit application, and where it no longer meets needs identified in the state solid waste management plan and one or more solid waste management plans submitted to and approved by the [division] **department** under RSA 149-M:25 due to circumstances beyond its control, as determined by the commissioner [of environmental services] and the attorney general, the department shall not enforce this paragraph based solely upon such inconsistency.

149-M:12 Criteria for Approval, Suspension, or Revocation.

I. The [division] **department** shall approve an application for a permit only if it determines that the facility or activity for which the permit is sought will:

(a) Comply with this chapter and all rules adopted under it;

(b) Be consistent with the provisions of the state, district, and local plans; and

(c) Comply with federal and state air or water pollution statutes, regulations, and rules.

II. The [division] **department** may suspend or revoke any permit issued under this chapter if, following an opportunity for hearing, it determines that:

(a) The permit holder has committed a violation of this chapter, or any rule, plan, order, or permit conditions in force under it; or

(b) The facility or activity covered by the permit presents an immediate and substantial threat to human health or the environment.

III. In processing applications for a permit under this chapter, the [division] **department** shall comply with time limits prescribed in RSA 541-A:29.

29 Solid Waste Management; Penalties; Changes Required by Reorganization of the Department of Environmental Services. Amend RSA 149-M:15 to read as follows:

149-M:15 Penalties and Other Enforcement.

I. The [division] **department** may issue an order to any person in violation of this chapter, a rule adopted under this chapter, or any condition in a permit issued under this chapter to comply with this chap-

ter, the rule or the permit, and require such remedial measures as may be necessary. Any person to whom such an order is directed may appeal to the waste management council.

II. If the [division] **department** finds that an emergency exists requiring immediate action to protect the public health, it may issue an order stating that an emergency exists and requiring that such action be taken as it judges necessary to meet the emergency. The order shall be effective immediately. Any person to whom such an order is directed shall comply immediately, but may appeal to the waste management council.

III. Any person who violates any of the provisions of this chapter, or any rule adopted or order issued under this chapter, or any condition in a permit issued under this chapter shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

IV. Any person who violates any of the provisions of this chapter, or any rule adopted or order issued under this chapter, or any condition in a permit issued under this chapter shall be subject to a civil penalty not to exceed \$25,000 for each violation, or for each day of a continuing violation.

V. Notwithstanding RSA 651:2, any person may, in addition to any sentence of imprisonment, probation or conditional discharge, be fined not more than \$25,000 if found guilty of any violation pursuant to paragraph III. Each day of violation shall constitute a separate offense.

VI. Any violation of the provisions of this chapter, or of any rule adopted or order issued under it, or of any condition in a permit issued under it, may be enjoined by the superior court upon application of the attorney general.

VII. Commercial trash haulers or municipalities violating the labeling requirements as provided in RSA 149-M:10, II shall be subject only to a fine of \$50 per day per container, notwithstanding paragraphs III and IV.

VIII. Municipalities may apply to a justice of the superior court for injunctive relief against existing or impending violations of this chapter, or any rule or order issued under this chapter. The municipality shall give notice of any such action to the attorney general and the commissioner [of environmental services], who may take such steps as they deem necessary to ensure uniform statewide enforcement, including but not limited to joining the action, assuming sole prosecution of the action, or as of right dismissing the action without prejudice. Such notice shall be given at least 30 days prior to the commencement of any such action, unless more immediate action is necessary to prevent irreparable environmental damage or other serious public harm, in which case such notice shall be given as soon as practicable, but in no event later than the date of commencement of the action. This paragraph shall not be construed to affect, in any manner, existing authority of municipalities to act based upon the provisions of other statutes or local ordinances.

30 Solid Waste Management; Changes Required by the Reorganization of the Department of Environmental Services. Amend RSA 149-M:21 and 22 to read as follows:

149-M:21 Failure to Provide Facilities. If any town fails to provide an approved disposal facility as required under RSA 149-M:17, the following steps shall be taken:

I. The [division] **department** shall conduct an investigation of opportunities for joint action with other towns, the availability of private facilities, and possible facility sites within the town.

II. The [division] **department** shall report findings to the district and town, and seek local agreement to an acceptable solution to the waste problem.

III. If no agreement is reached within 60 calendar days after the findings are delivered, the [division] **department** shall schedule and hold a public hearing in the town. Notice of the hearing shall be posted in 2 or more public places in the town for at least 14 calendar days before it is held.

IV. If no agreement is reached within 45 calendar days after the hearing, the [division] **department** shall either order the town to participate in an existing or planned approved facility, or shall recommend that land within the town be taken by eminent domain for the establishment of an approved facility.

V. If the [division] **department** determines that land shall be taken, the [division] **department** shall institute eminent domain proceedings in accordance with RSA 498-A.

VI. The [division] **department** shall be responsible for the facility's design and construction.

149-M:22 Facility Built by State. If land is taken for construction of a facility:

I. The property shall be held in the name of the state and shall not be taxed.

II. Upon completion, the facility shall be operated by the town in accordance with the facility plan.

III. At the time of the taking, the [division] **department** shall certify to the commissioner of revenue administration the costs of establishing the facility. The certification shall be revised when the facility is complete to reflect actual costs, including land, buildings, equipment, administration, planning, consultants, and any other necessary costs.

IV. The commissioner of revenue administration shall assess the costs on the town over a 20-year period. Each annual assessment shall include the interest on any debt incurred by the state for this purpose. The assessment shall be made as provided in RSA 21-J:9 and RSA 81.

V. When all costs and interest are paid, the property shall be deeded to the town, or in the case of an unincorporated town or unorganized place, to the county.

31 Solid Waste Management; Changes Required by the Reorganization of the Department of Environmental Services. Amend RSA 149-M:24 and 25 to read as follows:

149-M:24 Districts and Subdistricts; Powers; Responsibilities.

I. Each town shall participate in planning efforts, either as a town or as a solid waste management district. Towns or districts formed by area towns shall be the basis for developing a town or district solid waste management plan. Subdistricts may be formed, the plans of which will be included in the district plan for purposes of implementation. Each town, whether it has entered into a district voluntarily or has been assigned to a district, shall remain in such a district in order to participate in a solid waste management plan pursuant to paragraph IV and may withdraw from that district only after the town has:

(a) Obtained approval by a majority vote of district committee members of the solid waste management district or cooperative of which the municipality is currently a member.

(b) Paid its proportionate equitable share of the district expenses and debt, including long-term debt incurred by the district.

II. In implementing their responsibilities under this chapter, towns may enter into a written agreement, which may be:

(a) A service contract;

(b) A memorandum of understanding;

(c) A formal inter-municipal cooperative agreement under RSA 53-A;

(d) A formal inter-municipal cooperative agreement under RSA 53-B; or

(e) Any other written agreement deemed appropriate by member towns.

III. Each district shall file a copy of its organizational agreement with the [division of waste management] **department** upon execution.

IV. Each town or district shall prepare and maintain an "approvable" solid waste management plan which is consistent with the state plan and demonstrates consideration of existing solid waste agreements and environmental and economic factors in the area. An "approvable" plan is one which contains information required by rule, in a form and with sufficient detail to demonstrate compliance with this provision.

149-M:25 Minimum Plan Requirements.

I. Each plan shall:

(a) Estimate the types, weights, and volumes of solid waste generated, including wet-cell batteries, used motor oil, tires, demolition debris, and waste particular to the district or municipality, current and available methods of disposal and treatment, and the types, weights, and volume of recyclable materials that can be recovered and recycled.

(b) Develop future projections of the types, weights, and volumes of waste generated, and the types and amounts of solid waste materials that can be recovered and recycled based on current and future population growth trends.

(c) Identify numbers, types, and capacities of operating facilities in the district or town in compliance with this chapter, and the location, type, and capacity of any proposed facilities.

(d) Establish a process by which those facilities with known or suspected groundwater contamination or emission problems can develop a remedial action plan, including funding requirements and funding mechanisms.

(e) Demonstrate a capacity or implementation plan for disposal for 10 years and an ongoing planning process as required in RSA 149-M:23 for 15 years from the date of filing of the plan. Each such plan shall be reviewed by the [division] **department** at least once every 5 years from the date of submission.

(f) Identify the means by which district members shall develop, construct, operate, or otherwise implement the solid waste management methods described in the plan.

II. Each plan shall be reviewed and commented upon by the [division] **department**. The [division] **department** or a district or town may request a hearing on the plan as submitted. The [division] **department** may approve, require modification of, or disapprove of any plan with cause stated and shall finally act upon each plan within 120 days of submission. Within 60 days after receipt of written notice of approval of the plan by the [division] **department**, the town or district and each town in the district shall begin implementing the plan.

III. Each district and town shall be responsible for demonstrating continuous compliance with its plan as approved by the [division] **department**. Should the [division] **department** determine that a district or town is not in compliance, it shall issue a remedial order.

32 Solid Waste Management; Changes Required by the Reorganization of the Department of Environmental Services. Amend RSA 149-M:27-30 to read as follows:

149-M:27 Refuse Recycling or Reduction.

I. No person shall dispose of refuse at any private solid waste land-fill facility having a lining and a leachate collection system unless all recyclable materials have been removed from such refuse or such refuse has been otherwise reduced in weight by at least 20 percent.

II. Weight reduction under this section may include removal of recyclable materials, composting, resource recovery, any other method approved by the [division of waste management] **department**, or any combination of such methods. Refuse or any solid waste resulting from such reduction methods shall not be subject to further weight reduction pursuant to this section.

III. If the [division] **department** finds that an emergency exists requiring immediate action to protect the public health, it may issue an order suspending all or any part of this section during such emergency.

IV. No wet-cell batteries shall be disposed of in a solid waste landfill facility or composting facility or incinerator, whether in a waste-to-energy facility or otherwise.

V. No leaf or yard waste shall be disposed in a solid waste landfill or incinerator including any waste to energy facility. This paragraph shall not apply to municipalities organized under RSA 53-A, RSA 53-B, or 1986, 139, if application of the paragraph would cause the municipality to violate or incur penalties under legal obligations existing on January 1, 1993. Any person who violates this paragraph shall be subject to the penalties and enforcement provisions of RSA 149-M:15 and 16.

149-M:28 Restrictions on Battery Sales and Disposal; Exemptions.

I.(a) Except as provided in subparagraph (b), no person shall sell or offer for sale in New Hampshire an alkaline manganese battery manufactured on or after January 1, 1993, which battery contains more than 0.025 percent mercury by weight of the battery.

(b) No person shall sell or offer for sale in New Hampshire alkaline manganese batteries having sizes and shapes resembling buttons or coins which have a mercury content of more than 25 milligrams of mercury per battery.

(c) A manufacturer shall not sell, distribute, or offer for sale in this state an alkaline manganese battery, except an alkaline manganese button cell, that contains added mercury, unless the commissioner [of environmental services] grants an exemption pursuant to paragraph II of this section.

II.(a) On application by a manufacturer, the commissioner [of environmental services] may exempt a manufacturer from the requirements of subparagraph I(c) if the manufacturer demonstrates that:

(1) Since July 11, 1992, the manufacturer has worked in good faith to develop mercury-free alkaline manganese batteries which, with respect to safety, leakage, capacity, rate capability and shelf life, are as good as alkaline manganese batteries containing no more than 0.025 percent mercury produced by that manufacturer on January 1, 1993; and

(2) If granted that exemption, the manufacturer shall continue to work in good faith to achieve the goals described in subparagraph (a)(1).

(b) An exemption granted by the commissioner [of environmental services] under this paragraph shall be effective for 2 years and may be renewed.

III. A manufacturer shall not sell, distribute, or offer for sale in New Hampshire a zinc-carbon battery that contains an added mercury concentration level of more than 10 parts per million by weight for batteries manufactured on or after January 1, 1993.

IV. No person shall dispose of mercuric oxide batteries in New Hampshire except in a manner approved by the department [of environmental services] under rules adopted pursuant to RSA 541-A.

V. No person shall sell or offer for sale in this state any consumer product manufactured after July 1, 1993, which is powered by a small, sealed, nickel-cadmium or small, sealed, lead acid battery unless:

(a) The battery can be easily removed by the consumer or is contained in a battery pack that is separate from the product and can be easily removed.

(b) Such product, the package containing such product, or the battery itself is clearly labeled in a manner which is visible and understandable to the consumer prior to purchase indicating that the battery must be recycled or disposed of properly.

(c) The battery must be clearly identifiable as to the type of electrode used in the battery.

(d) The battery or battery pack itself is labeled with the name of the manufacturer.

VI. The commissioner [of environmental services] may authorize the sale of a consumer product which does not comply with the provisions of paragraph V, if such product was available for sale on or before July 11, 1992, and the commissioner determines that the redesign of such product to comply with this section would result in significant danger to public health and safety. Any authorization under this paragraph shall be limited to 2 years and may not be renewed.

149-M:29 State Solid Waste Plan and Report.

I. Beginning October 1, 1998, and every 6 years thereafter, the [division] **department** shall update the state's solid waste plan.

II. At least every October 1 of every even-numbered year, the [division] **department** shall prepare a report on the level of achievement in reaching the 40 percent reduction goal established in RSA 149-M:2 and on proposed strategies for achieving the goal and any proposed changes to the goal. The report shall contain information regarding:

(a) The generation of solid waste in the state.

(b) The disposal of solid waste in the state, including figures on how the management compares with the hierarchy of preferred methods.

(c) Projected state solid waste management and capacity needs.

(d) State and regional trends in solid waste management.

(e) Congressional actions and court rulings that affect solid waste decisions.

(f) On-going efforts by the [division] **department** and other organizations in the state involved in solid waste issues.

(g) The [division's] **department's** solid waste programs and their focus.

(h) The status of efforts by the market development steering committee established in RSA 149-O:1.

(i) A listing of organizations which can provide assistance with solid waste management.

149-M:30 Cleanup of Waste Sites; Priorities; Rulemaking.

I.(a) In addition to any other powers conferred upon cities, towns, districts and counties by this chapter or by RSA 147-B, cities, towns, districts, and counties shall have the power to finance costs incurred for the closing and cleanup of landfills and other solid waste facilities and for the closing and cleanup of hazardous waste sites, excluding Superfund sites, as provided in RSA 147-B. Considerations for determining priority for eligibility to incur debt in the form of bonds guaranteed by the state of New Hampshire for solid waste landfill closure and cleanup of hazardous waste sites shall be as follows, in order of highest to lowest priority:

- (1) Facility poses immediate risk to human health.
- (2) Facility poses potential risk to human health.
- (3) Facility with high level source of contamination identified.
- (4) Facility with surface water impact identified.
- (5) Facilities with approved closure plans ready for construction.
- (6) Facilities with closure plans that have been deemed complete.
- (7) Facilities for which hydrogeological investigations have been

completed in accordance with an approved workscope and which have obtained a groundwater management permit and are actively engaged in the final design of the closure system.

(8) Facility shows groundwater impact with no alternate water supply in area.

(9) Facility shows high concentration of groundwater contamination with alternate water supply in area.

(10) Facility shows low concentration of groundwater contamination with alternate water supply available.

(b) Project priority may be adjusted by the commissioner [in consultation with the director,] when such adjustments are determined to be required to further protect public health and the environment.

II. If the amount of bonds authorized in a given year exceeds the annual bond limit, the commissioner shall recommend allocation of the bond guarantees based on the priority ranking system under paragraph I. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the administration of this section.

33 Contingency. If HB 1314 of the 1996 regular session becomes law, sections 27-32 of this act shall take effect at 12:01 a.m. on the day that section 2 of this act takes effect. If HB 1314 does not become law, sections 27-32 of this act shall not take effect.

34 Effective Date.

I. Sections 27-32 of this act shall take effect as provided in section 33 of this act.

II. The remainder of this act shall take effect 60 days after its passage.

Senator Currier moved adoption.

Adopted.

6164

Enrolled Bill Amendment to HB 1633-FN-LOCAL

Amend the bill by replacing all after section 8 with the following:

9 Solid Waste Facility Permit; Local Requirements Not Affected. RSA 149-M:10, IV is repealed and reenacted to read as follows:

IV. The issuance of a facility permit by the department shall not affect any obligation to obtain local approvals required under all applicable, lawful local ordinances, codes, and regulations not inconsistent with this chapter. Local land use regulation of facility location shall be presumed lawful if administered in good faith, but such presumption shall not be conclusive.

10 Solid Waste Facility Permit; Local Requirements Not Affected; Recodified Version. Amend RSA 149-M:9, VII to read as follows:

VII. [A] ***The issuance of a facility*** permit [issued] by the [division for a facility] ***department*** shall not [eliminate the need to comply with] ***affect any obligation to obtain local approvals required under all applicable, lawful local ordinances, codes, and regulations [that are consistent with a district plan] not inconsistent with this chapter.***

Local land use regulation of facility location shall be presumed lawful if administered in good faith, but such presumption shall not be conclusive.

11 Refuse Reduction. RSA 149-M:22 is repealed and reenacted to read as follows:

149-M:22 Refuse Reduction.

I. If the department finds that an emergency exists requiring immediate action to protect the public health, it may issue an order suspending all or any part of this section during such emergency.

II. No wet-cell batteries shall be disposed of in a solid waste landfill facility or composting facility or incinerator, whether in a waste-to-energy facility or otherwise.

III. No leaf or yard waste shall be disposed in a solid waste landfill or incinerator including any waste to energy facility. This paragraph shall not apply to municipalities organized under RSA 53-A, RSA 53-B, or 1986, 139, if application of the paragraph would cause the municipality to violate or incur penalties under legal obligations existing on January 1, 1993. Any person who violates this paragraph shall be subject to the penalties and enforcement provisions of RSA 149-M:12 and 12-a.

12 Refuse Reduction; Recodified Version. RSA 149-M:27 is repealed and reenacted to read as follows:

149-M:27 Refuse Reduction.

I. If the department finds that an emergency exists requiring immediate action to protect the public health, it may issue an order suspending all or any part of this section during such emergency.

II. No wet-cell batteries shall be disposed of in a solid waste landfill facility or composting facility or incinerator, whether in a waste-to-energy facility or otherwise.

III. No leaf or yard waste shall be disposed in a solid waste landfill or incinerator including any waste to energy facility. This paragraph shall not apply to municipalities organized under RSA 53-A, RSA 53-B, or 1986, 139, if application of the paragraph would cause the municipality to violate or incur penalties under legal obligations existing on January 1, 1993. Any person who violates this paragraph shall be subject to the penalties and enforcement provisions of RSA 149-M:15 and 16.

13 Contingency.

I. If HB 1314 becomes law, sections 9 and 11 of this act shall take effect July 1, 1996, at 12:01 a.m. If HB 1314 does not become law, sections 9 and 11 of this act shall not take effect.

II. If both HB 1314 and HB 1572-LOCAL become law, sections 2, 8, 10 and 12 of this act shall take effect at 12:01 a.m. on the effective date of HB 1572-LOCAL, and sections 4 and 6 of this act shall not take effect. If either or both HB 1314 and HB 1572-LOCAL do not become law, sections 10 and 12 of this act shall not take effect.

III. If HB 1572-LOCAL becomes law and HB 1314 does not become law, sections 2, 4, 6, and 8 of this act shall take effect at 12:01 a.m. on the effective date of HB 1572-LOCAL and sections 10 and 12 of this act shall not take effect.

14 Effective Date.

I. Sections 2, 4, 6, and 8-12 of this act shall take effect as provided in section 13.

II. The remainder of this act shall take effect upon its passage.

Senator Currier moved adoption.

Adopted.

6163

Enrolled Bill Amendment to SB 601-FN

Amend the bill by replacing section 8 with the following:

8 Definitions Added. RSA 125-I:2 is repealed and reenacted to read as follows:

125-I:2 Definitions.

I. "Air contaminant" means soot, cinders, ashes, any dust, fume, gas, mist (other than water), odor, toxic or radioactive material, particulate matter, or any combination thereof.

II. "Air toxic" means air contaminants designated by the commissioner of the department of environmental services from the organic compounds and metals listed by the United States Environmental Protection Agency in the Code of Federal Regulations, Title 40, Part 261, Subparts C and D and Table 4 of 450/5-86-011a and subsequent updates.

III. "Ambient air" means the unconfined atmosphere that envelops the earth.

IV. "Ambient air limit" means the standard designated pursuant to RSA 125-I:4 that establishes the maximum allowable concentration of emissions of a specific regulated toxic air pollutant at or beyond the compliance boundary.

V. "Commissioner" means the commissioner of the department of environmental services.

VI. "Compliance boundary" means the boundary of the property on which the stationary source is located or an alternate compliance boundary determined by the department in accordance with rules adopted pursuant to this chapter.

VII. "Council" means the air resources council established pursuant to RSA 21-O:11.

VIII. "Department" means the department of environmental services.

IX. "Device" means any burner, furnace, machine, equipment, or article which emits a regulated toxic air pollutant or air contaminant into the ambient air.

X. "Modification" means any physical or operational change in a stationary source or device which increases the amount of a specific regulated toxic air pollutant emitted by such source or device, or which results in the emission of any additional regulated toxic air pollutant.

XI. "Pollution control equipment" means any device that treats, removes, restricts, or otherwise controls the release or discharge of regulated toxic air pollutants that is not vital to normal productions operations.

XII. "Process" means any operation which combines devices, equipment, raw materials, utilities, and manpower for the production of goods, services, energy, pollution control, or other purposes which emits a regulated toxic air pollutant into the ambient air.

XIII. "Reference concentration limit" means an estimate established by the United States environmental protection agency of a daily exposure to the human population, including sensitive subgroups, that is likely to be without an appreciable risk of deleterious noncancer effects during a lifetime.

XIV. "Regulated toxic air pollutant" means any substance or compound emitted into the ambient air by a stationary source and designated a regulated toxic air pollutant pursuant to RSA 125-I:4. Regulated toxic air pollutants are classified as:

(a) Class I, meaning any regulated toxic air pollutant recognized by the United States Environmental Protection Agency as a Group A-

Human Carcinogen or Group B-Probable Human Carcinogen, as referenced in 51 Federal Register 34,000 (1986), or otherwise designated a regulated toxic air pollutant - Class I by the commissioner pursuant to rules adopted under RSA 125-I:3.

(b) Class II, meaning any regulated toxic air pollutant other than a regulated toxic air pollutant Class I, which is recognized by the United States Environmental Protection Agency as a Group C-Possible Human Carcinogen, as referenced in 51 Federal Register 34,000 (1986), or otherwise designated a regulated toxic air pollutant - Class II by the commissioner pursuant to rules adopted under RSA 125-I:3.

(c) Class III, meaning any regulated toxic air pollutant other than a regulated toxic air pollutant - Class I or Class II.

XV. "Stationary source" means any building, structure, facility, or installation that emits or may emit a regulated toxic air pollutant or air contaminant into the ambient air.

XVI. "Threshold limit value" means the threshold limit value-time weighted average (TLV-TWA) as set forth in the American Conference of Governmental Industrial Hygienists (ACGIH) 1995 list and as amended thereafter.

XVII. "Uncontrolled emission" means any emission of a regulated toxic air pollutant from a device or process at a stationary source that is not subject to treatment or removal by pollution control equipment prior to being emitted to the ambient air, or is emitted to the ambient air in amounts which have not been limited by conditions in an enforceable permit or document.

9 Reference Changed. Amend RSA 125-I:7, I and II to read as follows:

I. For the purpose of determining compliance with this chapter, any rule adopted by the commissioner relative to this chapter, or any condition of a permit issued under RSA 125-C relative to the emission of a regulated toxic air pollutant and any other air contaminant, an employee or authorized representative of the [division or the] department may, upon presentation of appropriate credentials and at any reasonable time:

(a) Enter any stationary source.

(b) Inspect and photograph the device or source which produces or controls emissions of regulated toxic air pollutants and other air contaminants, and obtain samples of materials processed in and generated from the devices and sources at the facility.

(c) Inspect and copy records, information or test results relating to air pollution, air contaminants and devices or sources which produce or control emissions of regulated toxic air pollutants and other air contaminants.

II. For the purpose of determining the type and quantity of regulated toxic air pollutants and other air contaminants being emitted from any stationary source, the [director] **commissioner** may require the stationary source to maintain and submit production data, material usage records, equipment manufacturer's specifications, material safety data sheets and such other similar records, data and information.

10 Reference Changed. Amend RSA 125-I:8, I to read as follows:

I. Whenever the commissioner or the commissioner's authorized representative finds that any device or source of air pollution has resulted in a violation of any of the provisions of this chapter or any rules in force hereunder, or any condition in a permit issued under this chapter, the commissioner shall issue a notice of violation and, where appropriate, an order of abatement establishing a compliance schedule with which the device or source shall comply. Any order of abatement shall become final and enforceable by the [director] **commissioner** within 30 days of

its issuance unless an appeal is filed with the council before the expiration of the 30-day period. The council shall hold a hearing on any such appeal promptly, and shall thereafter issue a decision upholding, modifying, or abrogating the commissioner's order of abatement or any part of such order. The council's decision shall become final 10 days after it is issued. Appeals from decisions of the air resources council shall be made in accordance with the provisions of RSA 541. Upon a finding by the commissioner, in consultation with the department of health and human services, that there is an imminent and substantial endangerment to the public health or welfare, the commissioner shall issue an order of abatement requiring immediate compliance. The order shall be final and enforceable upon issuance, but may be appealed to the council within 30 days of its issuance and the council may, after hearing, uphold, modify, or abrogate the order.

11 Contingency. If HB 1314 becomes law, sections 8-10 of this act shall take effect July 1, 1996, at 12:02 a.m. If HB 1314 does not become law, sections 8-10 of this act shall not take effect.

12 Effective Date.

I. Section 5 of this act shall take effect at 12:01 a.m. on the day the rules adopted under RSA 125-I:6, II become effective.

II. Sections 8-10 of this act shall take effect as provided in section 11 of this act.

III. Sections 2 and 3 of this act shall take effect July 1, 1996, at 12:01 a.m.

IV. The remainder of this act shall take effect July 1, 1996.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 610, integrating changes in the municipal budget act into the laws relating to towns and school districts.

HB 1515, establishing a telecommunications assistance program and appropriating certain funds for initial costs of such programs.

HB 1192, relative to the definition of developed waterfront property.

HB 1415, relative to the confidentiality and maintenance of adoption records.

HB 1399, establishing two new positions in the department of environmental services to implement the sludge permit system, making appropriations from the balance contained in the sewage disposal system fund, and relative to the sewage disposal system fund.

HB 1541, relative to employee leasing companies and temporary help services.

HB 1555, authorizing the commissioner of the department of environmental services to impose administrative fines for certain environmental violations and continually appropriating certain fine revenues.

HB 1610, allowing school districts to withdraw from school administrative units.

HB 1619, authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River, authorizing the department of health and human services to reroof four buildings, extending the lapse date on the Plaistow district court design, relative to refunding bonds and credit arrangements for state notes, relative to disaster assistance and making an appropriation therefor, and relative to the Pease Development Authority and the Manchester airport.

SB 580, relative to liquor licenses and making a variety of changes in the liquor laws.

SB 633, relative to victim restitution and compensation, establishing a special fund, and relative to expenses for voluntary or court dispositional service plans and recovery of costs for a minor's support.

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1199, relative to the New Hampshire statewide trail system advisory committee.

HB 1572, recodifying and revising the solid waste laws.

HB 1597, changing the wetlands board to the wetlands council.

HB 1633, relative to solid waste management.

SB 601, revising the air toxic control act.

Senator Currier moved adoption.

Adopted.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives has voted to sustain the Governor's Veto on the following Bill:

HB 1220-FN-L, providing that the state shall apply for and utilize moneys from the Goals 2000 - Educate American Act.

HOUSE MESSAGE

The House of Representatives has voted to sustain the Governor's Veto on the following Bill:

HB 1525, relative to damages in suits brought by administrators of an estate.

Adjourned to the Call of the Chair.

SENATE JOURNAL

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- restructuring principles for electric power HB 1392
- retail wheeling, competition in provision of retail electric service
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- small business advocate office to represent small business before PUC SB 642
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- state contracts and agencies, purchase through competitive bidding HB 1498
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- joint purchase of electric power by municipalities and counties SB 587
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- commercial, brokers, liens for listing agreements SB 73am
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- trails on private land, OHRVs not to gain prescriptive rights by adverse
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- required HB 1100

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- aggravated, extended term of imprisonment SB 618
- blood alcohol of .02 while operating an emergency vehicle, penalty HB 1221
- certain accidents, testing for controlled drugs; exception from
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drivers SB 539am
- driver's license suspended or revoked, operation of motor boat
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- impaired driver intervention program, further counseling requirement,
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- penalty provisions reorganized; third and subsequent offenses, penalties
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- provision prohibiting being charged with both driving under the
influence and driving with excess alcohol concentration repealed HB 1403
- emergency vehicles disregarding, audible and visible signals required SB 567
- sobriety checkpoints allowed after superior court authorization HB 1285am

Roadblocks. See: Sobriety checkpoints**Rockingham county, transfer of ownership of state land HB 1612****Roll calls**

- SB 7-FN-A, relative to kindergarten aid programs, the establishment of certain
kindergarten aid funds, and making an appropriation therefor. Question,
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- Question, adopt conference committee report. Yeas, 18; Nays, 5 ... 1018-1019
- SB 47, relative to special contracts for electrical power and services.
Question, adopt committee report of inexpedient to legislate.
Yeas, 16; Nays, 7 29
- SB 166-FN-LOCAL, enacting the Uniform Interstate Family Support Act
(UIFSA). Question, adopt substitute motion of ought to pass.
Yeas, 11; Nays, 11 66
- SB 501, repealing a requirement for keeping records of sales of pistols
and revolvers. Question, adopt committee amendment.
Yeas, 24; Nays, 0 373
- SB 505, prohibiting bear and deer baiting for hunting purposes. Question,
adopt committee report of inexpedient to legislate. Yeas, 9; Nays, 12 194
- Question, substitute ought to pass for inexpedient to legislate.
Yeas, 12; Nays, 10 194
- Question, order to third reading. Yeas, 11; Nays, 12 196
- SB 506, establishing a commission on environmental programs. Question,
adopt motion of ought to pass. Yeas, 11; Nays, 12 189
- SB 514, relative to the definition of personal watercraft. Question, adopt
majority report of ought to pass. Yeas, 14; Nays, 10 212
- Question, order to third reading. Yeas, 15; Nays, 9 293
- SB 522, increasing the income eligibility for child care benefits under AFDC.
Question, take off table. Yeas, 9; Nays, 15 372
- SB 531, relative to the possession of firearms by persons convicted of violent
misdemeanors. Question, adopt committee report of inexpedient to
legislate. Yeas, 20; Nays, 4 279
- SB 545, relative to the powers of city councils. Question, substitute ought to
pass for inexpedient to legislate. Yeas, 13; Nays, 11 380

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SB 573, relative to the issuance by courts of telephonic emergency temporary orders. Question, adopt conference committee report. Yeas, 17; Nays, 6	996
SB 594, prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency. Question, adopt committee amendment. Yeas, 16; Nays, 8	303
SB 636-FN-LOCAL, requiring local land use boards to prepare a checklist containing the information necessary for submitting an application to the board. Question, order to third reading. Yeas, 4; Nays, 18	384
SB 645-FN-A, relative to congregate housing and making an appropriation therefor. Question, lay on table. Yeas, 17; Nays, 7	414-415
SB 651, relative to taxes on simulcast dog racing and establishing a committee to examine certain aspects of the pari-mutuel industry. Question, substitute concurrence for nonconcurrence. Yeas, 15; Nays, 8 ...	898
SB 660, relative to the central registry in the department of health and human services. Question, adopt committee report of refer for interim study. Yeas, 17; Nays, 7	356
SB 664, relative to remedies against licensing authorities for failure to comply with state laws regarding licenses to carry pistols and revolvers. Question, order to third reading. Yeas, 23; Nays, 1	280-281
Question, order to third reading. Yeas, 24; Nays, 0	281
SCR 20, demanding that the federal government cease enacting mandates that are beyond the scope of the 10th Amendment to the United States Constitution. Question, order to third reading. Yeas, 23; Nays, 0	170-171
SCR 21, urging the President of the United States and Congress to establish an independent commission to advise Congress on campaign finance reform legislation. Question, adopt committee amendment. Yeas, 24; Nays, 0	166
HB 501-FN-L, relative to public employee collective bargaining. Question, substitute ought to pass for inexpedient to legislate. Yeas, 5; Nays, 17 ...	436
HB 1154, establishing kindergarten planning assistance and maintenance aid programs, and making an appropriation therefor. Question, substitute ought to pass for inexpedient to legislate. Yeas, 7; Nays, 15 ...	828
HB 1220-FN-L, providing that the state shall apply for and utilize moneys from the Goals 2000: Educate America Act. Question, adopt Larsen floor amendment. Yeas, 9; Nays, 15	655
HB 1252-FN-A-L, establishing a local education improvement assistance program and making an appropriation therefor. Question, adopt committee report of inexpedient to legislate. Yeas, 19; Nays, 5	583
HB 1253-FN-A, relative to senior "meals on wheels" and senior transportation and making an appropriation therefor. Question, adopt committee amendment. Yeas, 21; Nays, 3	770
HB 1344, providing for an increase in the maximum cost of sweepstakes tickets and relative to the assignment of lottery prizes. Question, adopt Gordon and Rubens floor amendment. Yeas, 9; Nays, 15	618
HB 1369, adding new requirements for appeals processes and appeals board membership relating to nonprofit health service corporations and health maintenance organizations. Question, substitute ought to pass for inexpedient to legislate. Yeas, 11; Nays, 13	721
HB 1442, relative to children's services. Question, adopt committee amendment. Yeas, 21; Nays, 2	873
HB 1445-FN-A-LOCAL, providing for certain services for the developmentally disabled and making an appropriation therefor. Question, substitute ought to pass for inexpedient to legislate. Yeas, 8; Nays, 16	776
HB 1450-FN, relative to postsecondary educational assistance for members of the New Hampshire national guard. Question, adopt conference committee report. Yeas, 16; Nays, 8	957
HB 1509, making certain retired physicians immune from civil liability for volunteer health education services. Question, ought to pass. Yeas, 20; Nays, 3	695

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- HB 1517-FN-A, increasing the cigarette tax and designating a portion of the revenue for cancer-related research and screening and anti-smoking campaigns. Question, substitute ought to pass for inexpedient to legislate. Yeas, 8; Nays, 16 624
- HB 1540-FN-L, changing the school foundation aid distribution formula. Question, adopt majority report of inexpedient to legislate. Yeas, 17; Nays, 7 833
- HB 1565-FN, changing the age of qualification for services in certain cases under RSA 169-D for children in need of services. Question, adopt Larsen floor amendment. Yeas, 7; Nays, 17 835
- HB 1577, relative to expenses for voluntary or court dispositional service plans. Question, adopt Pignatelli floor amendment. Yeas, 8; Nays, 16 847
- HB 1613, prohibiting and eliminating exclusivity contracts between health care insurers and health care providers. Question, adopt Russman floor amendment. Yeas, 9; Nays, 15 705
- HB 1623-L, authorizing school districts to establish revolving funds to finance certain projects and relative to the printed materials revolving fund under the department of education, and increasing the appropriation therefor. Question, adopt Larsen floor amendment. Yeas, 11; Nays, 13 856

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- commercial motor vehicle out of service order violations, administrative fines HB 1594

- emissions inspection program, study and report on statutory changes to reflect federal changes HB 1476

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- director, boating safety checklist and course may be required HB 1546

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Saint-Gaudens Memorial, charter amended HB 1132am

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adop	adopted
am	amended, amendment
Cap Budget	referred to Capital Budget committee
Com	re-referred to committee
conc	concurred
conf	conference committee
Econ Dev	referred to Economic Development committee
enr	enrolled
Finance	referred to Finance committee
H	House
intro	introduced, introduction
IP	indefinitely postponed
K	killed (inexpedient to legislate)
LT	laid on the table
nonconc	nonconcurred
opin	opinion
psd	passed
RC	roll call
rcmt	recommitted
recon	reconsideration, reconsidered
rej	rejected
rep	report
req	request, requested
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2, LT (RC) 210-214, am (RC) 291-293, psd 307, H nonconc 726
- SB 515**, relative to venue for arraignment and bail of defaulters. (Johnson, Dist 3 et al: Judiciary)
New title: relative to venue for arraignment and bail of defaulters and to waivers of driver's license suspensions for certain defaults.
2, am 214-215, psd 229, conc H am 859, enr 912 (Chapter 182)
- SB 516**, relative to dwellings with lead paint. (Stawasz, Dist 12: Public Institutions, Health and Human Services)
2, am 353-354, psd 385, H nonconc 726
- SB 517-LOCAL**, limiting the property tax exemption for real estate used as rental property by nonprofit charitable organizations. (Shaheen, Dist 21 et al: Ways and Means)
First new title: relative to a property tax exemption for real estate used as rental housing by certain nonprofit charitable organizations and relative to assessments against owners of property in central business districts.
Second new title: relative to assessments against owners of property in central business districts
3, am 289-290, psd 307, nonconc H am, conf 730, 743, rep adop 989, 1027, enr 1058 (Chapter 264)
- SB 518**, relative to financial liability of the university of New Hampshire for a company's default on matching funds obligations for the industrial research center. (Shaheen, Dist 21 et al: Capital Budget)

First new title: relative to the industrial center and the financial liability of the state for a company's default on matching fund obligations, authorizing the assessment of fees on certain projects, and the disposition of equipment purchased with state funds.

Second new title: relative to the industrial research center and the financial liability of the state for a company's default on matching fund obligations, authorizing the assessment of fees on certain projects, and relative to the disposition of equipment purchased with state funds.

3, am 398-399, psd 427, H conc 806, enr am 894, enr 913 (Chapter 183)

SB 519, repealing the sunset provision of the driver attitude training program. (Roberge, Dist 9 et al: Education)
3, psd 94, 101, H conc 476, enr am 717, enr 728 (Chapter 82)

SB 520, establishing a study committee on the issue of granting municipalities the option of assessing property taxes on April 1 and October 1 of each year. (Roberge, Dist 9; Rep. Burke, Hil 15: Public Affairs)
3, psd 109, 116, H nonconc 726

SB 521-LOCAL, establishing a civic center commission. (Larsen, Dist 15 et al: Economic Development)
New title: establishing a civic center commission to operate a civic and trade center in the city of Concord.
3, am 242-245, psd 307, conc H am 859, enr 987 (Chapter 184)

SB 522, increasing the income eligibility for child care benefits under AFDC. (Larsen, Dist 15 et al: Public Institutions, Health and Human Services)
3, LT 221, remarks 371, LT (RC) 372, remarks 373, K 911

SB 523, relative to insurance holding companies. (Rodeschin, Dist 8: Insurance)
3, am 131-132, psd 133, H conc 725, enr 865 (Chapter 136)

SB 524, relative to filing of reports or inventories with the probate court by guardians, fiduciaries, and executors. (Podles, Dist 16: Judiciary)
New title: relative to filing of reports or inventories with the probate court by guardians, fiduciaries, and executors; adopting the uniform disclaimer of property interests act; and relative to jurisdiction of family division courts.
3, am 272-278, psd 307, conc H am 859-860, enr am 1020-1021, enr 1040 (Chapter 265)

SB 525, relative to declaratory judgments. (Colantuono, Dist 14; Rep. Hess, Mer 11: Judiciary)
3, am 279, psd 307, conc H am 860, enr 912 (Chapter 185)

SB 526, relative to the membership of the commission on the status of the family. (Colantuono, Dist 14: Executive Departments and Administration)
New title: revising the commission on the status of the family.
3, am 127-128, psd 133, H study 726

SB 527, establishing a committee to study methods of promoting competition among water utilities. (Colantuono, Dist 14 et al: Executive Departments and Administration)
3, psd 198, 230, H conc 476, enr 628 (Chapter 58)

SB 528, making certain changes in the law regarding trustees of estates. (Gordon, Dist 2: Banks)
3, am 174-175, psd 197, H study 726

SB 529, limiting railroad liability for passenger trains. (Keough, Dist 23: Transportation)
3, am 182-183, psd 197, H nonconc 726

SB 530, authorizing the court to suspend the motor vehicle driver's license of a person convicted of criminal mischief. (Cohen, Dist 24 et al: Judiciary)
4, am 215, psd 230, H study 726

SB 531, relative to the possession of firearms by persons convicted of violent misdemeanors. (Cohen, Dist 24: Judiciary)
4, K (RC) 279

SB 532, relative to the notification and recording requirements for groundwater management permits. (Rodeschin, Dist 8: Environment)
New title: relative to the creation and recordation of groundwater management zones.
4, am 310-312, psd 385, conc H am 735-736, enr am 1021-1022, enr 1040 (Chapter 266)

SB 533, prohibiting the recovery of certain costs associated with special utility contracts. (Shaheen, Dist 21 et al: Executive Departments and Administration)
New title: relative to economic development and retention rates.
4, am 258-259, psd 308, conc H am 745-746, enr 912 (Chapter 186)

- SB 534**, requiring candidates to report when either receipts or expenditures exceed a certain amount. (Shaheen, Dist 21 et al: Executive Departments and Administration) 4, LT 198, psd 371-372, 385, H nonconc 726
- SB 535**, relative to automobile insurance. (Rodeschin, Dist 8: Insurance) 4, psd 160, 173, H study 726
- SB 536-LOCAL** prohibiting public employers and public employee organizations for educational institutions from offering or providing information to students relative to any labor matter between the employer and the employee organization. (Stawasz, Dist 12: Education)
New title:, prohibiting public employees of educational institutions from utilizing students as couriers relative to any labor matter in dispute between the employer and the employee organization.
 4, am 176-177, psd 197, H nonconc 727
- SB 537**, relative to state contracts for consultants. (Shaheen, Dist 21 et al: Executive Departments and Administration) 4, am 198-199, psd 230, conc H am 485, enr 799 (Chapter 118)
- SB 538**, limiting the amount of attorneys' compensation in tort cases. (Roberge, Dist 9 et al: Insurance) 4, K 132
- SB 539-FN**, requiring law enforcement officers to submit to a drug and alcohol blood test if involved in a motor vehicle accident causing injury or death. (Barnes, Dist 17; Rep. Dolan, Rock 12: Transportation)
First new title: requiring all drivers to be tested for evidence of blood alcohol and drug content if involved in a motor vehicle accident causing death.
Second new title: relative to operating emergency vehicles while intoxicated, relative to blood testing, relative to confidential communications between a patient and a physician or surgeon; relative to claims against the state; adding a member to the emergency medical and trauma services coordinating board; and replacing the medical advisory board with the emergency medical services medical control board.
Third new title: relative to blood testing; relative to confidential communications between a patient and a physician or surgeon; relative to claims against the state; adding a member to the emergency medical and trauma services coordinating board; and replacing the medical advisory board with the emergency medical services medical control board.
 4, am & Finance 145-146, psd 328-329, 385, nonconc H am, conf 906, 910, rep adop 989-990, enr am 1041, enr 1058 (Chapter 267)
- SB 540-FN**, modifying the definition of a qualified investment company. (Fraser, Dist 4: Banks) 4, am 175-176, psd 197, H conc 725, enr 894 (Chapter 154)
- SB 541-FN-A**, exempting the healthy kids corporation from the insurance premium tax. (Larsen, Dist 15 et al: Insurance) 4, psd 200, 230, H conc 725, enr 799 (Chapter 119)
- SB 542-FN**, relative to license and registration suspensions. (Cohen, Dist 24; Roberge, Dist 9: Transportation)
New title: relative to license and registration suspensions, increasing the registration restoration fee and clarifying regulations regarding the registration and fees for semi-trailers.
 4, am & Finance 224-225, am 405-407, psd 427, H nonconc 743, remarks 823
- SB 543-FN-A-LOCAL**, designating a portion of the business profits tax to be distributed to the cities and towns and making an appropriation therefor. (J. King, Dist 18 et al: Ways and Means) 5, LT 147-148, 382, K 911
- SB 544-FN**, requiring the New Hampshire retirement system to put out to public bid the contract for the retirement system actuary. (Cohen, Dist 24: Insurance) 5, K 160-161
- SB 545**, relative to the powers of city councils. (J. King, Dist. 18: et al Judiciary) 5, LT 280, am (RC) 378-381, psd 385, nonconc H am, conf 906, 910, rep adop 990, 1027, enr 1058 (Chapter 268)
- SB 546-FN**, relative to self-employment for certain public assistance recipients. (Larsen, Dist 15 et al: Public Institutions, Health and Human Services) 5, study 221
- SB 547-FN-A**, requiring the department of safety services, division of safety services, to publish the New Hampshire boaters guide and making an appropriation therefor. (Barnes, Dist 17: Transportation)

New title: requiring the department of safety, division of safety services, to publish the New Hampshire Boaters guide, establishing a revolving fund to pay for publication of the Boaters guide and making an appropriation therefor.
5, Finance 111-112, am 329, psd 385, nonconc H am, conf 810, 907, rep adop 991, 1027, enr am 1043, enr 1058 (Chapter 269)

SB 548-FN, relative to accidental death benefits for group II members in the New Hampshire retirement system. (J. King, Dist 18 et al: Insurance)

First new title: relative to accidental death benefits for group I and group II members in the New Hampshire retirement system.

Second new title: relative to accidental death benefits for group I and group II members in the New Hampshire retirement system and relative to the definition of earnable compensation.

5, am 269-270, psd 308, conc H am 807, enr 912 (Chapter 187)

SB 549, relative to the children's trust fund. (Podles, Dist 16 et al: Banks)

5, psd 94, 101, conc H am 447, enr 799 (Chapter 120)

SB 550, allowing a certain town employee to buy back time in the New Hampshire retirement system. (Shaheen, Dist 21 et al: Insurance)

5, psd 200-201, 230, H conc 725, enr 799 (Chapter 121)

SB 551, establishing a committee to review state-funded health care insurance. (Shaheen, Dist 21 et al: Insurance)

5, psd 161, 173, conc H am 735, enr 865 (Chapter 137)

SB 552, relative to life, accident, and health insurance, nonprofit health service corporations, and health maintenance organizations. (Rodeschin, Dist 8: Insurance)

5, am 201-206, psd 230, conc H am 734, enr am 891, enr 912 (Chapter 188)

SB 553, relative to purchasing manufactured housing in manufactured housing parks. (Lovejoy, Dist 6: Public Affairs)

5, K 132

SB 554-FN, requiring the department of resources and economic development, the office of state planning, Pease development authority, and the business finance authority to make annual reports on their economic development programs. (Cohen, Dist 24 et al: Economic Development)

New title: requiring the department of resources and economic development, the office of state planning, Pease development authority, and the business finance authority to make annual reports on their economic development programs and allowing state credit unions to participate in the capital access program.

5, am & Finance 138-139, am 329-332, psd 385, conc H am 860, enr 912 (Chapter 189)

SB 555-FN-A-LOCAL, authorizing the sweepstakes commission to establish video lottery game machines and allow electronic games of chance at racetracks and making certain appropriations. (F. King, Dist 1; J. King, Dist 18: Ways and Means)

6, LT 99, K 911

SB 556, relative to services provided by manufactured housing park owners. (Lovejoy, Dist 6: Public Affairs)

6, K 133

SB 557, relative to the jurisdiction of the board of manufactured housing. (Danais, Dist 20: Executive Departments and Administration)

6, K 141

SB 558-FN, relative to future electric rate increases. (Shaheen, Dist 21 et al: Executive Departments and Administration)

6, K 312

SB 559-FN-LOCAL, declaring proposed public collective bargaining agreements to be public records subject to inspection. (Barnes, Dist 17: Public Affairs)

6, am 219-220, psd 230, nonconc H am, conf 736-737, 743, rep adop (unable to agree) 991, 1027

SB 560, relative to utilization review programs. (Blaisdell, Dist 10; Shaheen, Dist 21: Insurance)

6, am 270, psd 308, nonconc H am, conf 733, 808, rep adop 991, 1027, enr 1039 (Chapter 270)

SB 561-A, making a supplemental appropriation for capital improvements to the university system of New Hampshire for Lamson library at Plymouth state college and for Pettee Hall at the university of New Hampshire. (Gordon, Dist 2 et al: Capital Budget)

First new title: making a supplemental appropriation for capital improvements to the university system of New Hampshire for Lamson library at Plymouth state college.

Second new title: making an appropriation for capital improvements for Lamson Library at Plymouth state college and for the purchase of furnishings for the Brown building; extending certain lapse dates; relative to the Pease development authority; relative to state veterans' oversight committee and a state veterans' cemetery; increasing an appropriation for the Hanover-Lebanon district court; and decreasing an appropriation for the Coos county superior court.

6, am 399-400, psd 427, conc H am 906-907, enr 987 (Chapter 190)

SB 562-FN-LOCAL, returning municipal ordinance fines to the municipalities. (Pignatelli, Dist 13 et al: Judiciary)

6, Finance 215, K (RC) 332-335, remarks 370-371

SB 563, relative to prejudgment interest in civil actions. (Cohen, Dist 24: Judiciary)

6, K 280

SB 564, relative to reporting by political committees and candidates. (Cohen, Dist 24 et al: Executive Departments and Administration)

6, K 199

SB 565, establishing a committee to study the feasibility of amending the New Hampshire incorporation statutes in such a way as to make New Hampshire the incorporation haven of the nation. (Stawasz, Dist 12: Judiciary)

6, K 107-108

SB 566-FN, requiring transporters of hazardous material to maintain transportation liability insurance coverage. (Blaisdell, Dist 10 et al: Transportation)

6, am 95-96, psd 101, nonconc H am, conf 730, 743 (H IP)

SB 567-FN, requiring emergency vehicles to have blue lights and sirens on when speeding or disregarding rules of the road when responding to an emergency or for any other reason. (Barnes, Dist 17 et al: Transportation)

7, K 146

SB 568-FN, requiring the house and senate calendars to be made available on the largest nonprofit public computer network (Internet). (Cohen, Dist 24: Executive Departments and Administration)

7, am 259, psd 308, H nonconc 727

SB 569-FN, reducing the number of liquor commissioners from 3 to one. (J. King, Dist 18 et al: Executive Departments and Administration)

7, LT 140-141, K 169

SB 570, relative to the transportation of dogs in motor vehicles. (Roberge, Dist 9 et al: Transportation)

7, am 146-147, psd 156, conc H am 808, enr 987 (Chapter 191)

SB 571-LOCAL, relative to speech-language pathologists in the schools. (Lovejoy, Dist 6 et al: Education)

New title: establishing a committee to study issues relating to educationally disadvantaged children who are placed at a county correctional facility.

7, am 102-103, psd 116, conc H am 808, enr am 1022, enr 1040 (Chapter 271)

SB 572, relative to teacher professional standards. (Rubens, Dist 5 et al: Education)

7, LT 139, K 911

SB 573, relative to the issuance by courts of telephonic emergency temporary orders. (Podles, Dist 16: Judiciary)

7, am 216, psd 230, nonconc H am, conf 861-862, 907, rep adop (RC) 992-996, 1026, enr 1058 (Chapter 272)

SB 574, defining school district liability for an educationally disabled child who is placed at a county correctional facility. (Gordon, Dist 2 et al: Education)

First new title: establishing a committee to study issues relating to educationally disadvantaged children who are placed at a county correctional facility.

Second new title: establishing a committee to study issues relating to providing free, appropriate public education for educationally disabled students who are placed at the state prison, a county correctional facility, the youth development center, or the youth services center.

7, am 139-140, psd 156, conc H am 809, enr am 1022, enr 1041 (Chapter 273)

SB 575, relative to reporting requirements for candidates for local offices. (Roberge, Dist 9 et al: Executive Departments and Administration)

7, rcmt 199-200, am 312-313, psd 385, H nonconc 727

SB 576-LOCAL, permitting telecommunications public utilities to provide services at rates lower than those fixed by its schedules of general application to public and private schools grades kindergarten through 12. (J. King, Dist 18 et al: Executive Departments and Administration)

7, am 259-260, psd 308, H study 726

- SB 577**, providing an option for abortion coverage in health insurance. (Colantuono, Dist 14 et al: Insurance)
New title: establishing a committee to study the issue of implementing individual withdrawal selection for abortion coverage by an individual in a group policy, including premium implications and administrative costs.
 7, am 270-271, psd 308, nonconc H am, conf 733, H rej conf req 907
- SB 578**, relative to the interception and disclosure of wire or oral communications by emergency personnel. (Currier, Dist 7: Judiciary)
New title: relative to the interception and disclosure of telecommunications or oral communications by emergency personnel.
 7, psd 95, 101, conc H am 899-900, enr am 1022-1023, enr 1041 (Chapter 274)
- SB 579**, relative to the membership of the teacher professional standards board. (Roberge, Dist 9 et al: Education)
 8, K 103
- SB 580**, relative to liquor licensees. (Rubens, Dist 5; Stawasz, Dist 12: Ways and Means)
New title: relative to liquor licenses and making a variety of changes in the liquor laws.
 8, am 112-113, psd 116, nonconc H am, conf 899, 910-911, rep adop 996-997, 1026, enr am 1056-1057, enr 1094 (Chapter 275)
- SB 581-LOCAL**, relative to the Derry local exit on I-93. (Russman, Dist 19 et al: Transportation)
 8, Cap Budget 96, am 404-405, psd 427, H nonconc 727
- SB 582**, requiring automobile insurance companies to offer uninsured motorist coverage as an insurance option, not a requirement. (Barnes, Dist 17; Rep. Arnold, Hil 20: Insurance)
 8, K 161
- SB 583**, requiring the Coos county commissioners to be elected on a rotating basis. (F. King, Dist 1; Rep. Horton, Coos 3: Executive Departments and Administration)
 8, psd 106, 116, H conc 725, enr 865 (Chapter 138)
- SB 584-LOCAL**, requiring that bond issues be voted on by official ballot and restricting reconsideration of votes on bond issues. (Stawasz, Dist 12: Public Affairs)
New title: allowing bond issues to be voted on by official ballot and restricting reconsideration of votes on bond issues.
 8, LT 352-353, am & LT 373-375, K 911
- SB 585-FN-A**, imposing a tax on big game hunting preserve property. (Cohen, Dist 24; Rep. Trombly, Mer 4: Fish & Game/Recreation)
 8, LT 142, K 169
- SB 586-LOCAL**, creating a current use taxation category for big game hunting preserves. (Cohen, Dist 24; Rep. Trombly, Mer 4: Fish & Game/Recreation)
 8, K 142-143
- SB 587**, authorizing municipal agreements to purchase and distribute electricity. (Cohen, Dist 24 et al: Economic Development)
New title: authorizing municipal and county agreements to purchase electricity and energy services.
 8, am 245-249, psd 308, conc H am 860, enr 912 (Chapter 192)
- SB 588**, relative to tenant eviction proceedings. (Lovejoy, Dist 6; Roberge, Dist 9: Judiciary)
 8, am 216-217, psd 230, conc H am 809, enr 894 (Chapter 155)
- SB 589**, relative to the qualifications for members of the fish and game commission. (Pignatelli, Dist 13; Cohen, Dist 24: Executive Departments and Administration)
 8, K 141-142
- SB 590**, relative to insurance coverage for early intervention services. (J. King, Dist 18 et al: Insurance)
New title: establishing a committee to study the feasibility of requiring insurers to cover early intervention services.
 8, am 206-207, psd 230, conc H am 734-735, enr 913 (Chapter 193)
- SB 591**, relative to the appointment of guardians for incapacitated persons and confidential communications. (J. King, Dist 18: Public Institutions, Health and Human Services)
 8, K 182
- SB 592-FN-LOCAL**, relative to the minimum annual school building aid grant to a school district. (Cohen, Dist 24: Education)
New title: establishing a committee to study the distribution of school building aid.
 8, am 103-104, psd 116, H nonconc 727

- SB 593-FN-A**, authorizing a study of the feasibility of reconstructing New Hampshire Route 125 from the Massachusetts state line to Rochester, New Hampshire, and making an appropriation therefor. (Lovejoy, Dist 6 et al: Transportation)
New title: relative to New Hampshire Route 125.
 9, Cap Budget 96, am 401, psd 427, H nonconc 727
- SB 594**, prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency. (Lovejoy, Dist 6; Rep. D. Welch, Rock 18: Public Affairs)
First new title: placing limitations on warrant articles at special meetings.
Second new title: prohibiting capital appropriations from being voted on at special town or district meetings, except in the case of an emergency and relative to the polling place and to special meetings under the official ballot option.
Third new title: relative to procedures under the official ballot option to town meeting and establishing a committee to examine procedural aspects of the official ballot law.
 9, LT 228-229, am (RC) 298-305, psd 308, nonconc H am, conf 737, 742, rep adop 997, 1026, enr 1057 (Chapter 276)
- SB 595**, relative to licensed insurance agents under workers' compensation. (Danaïs, Dist 20: Insurance)
 9, psd 162, 173, H study 726
- SB 596**, requiring that all general election ballots alternate the names of candidates according to party. (J. King, Dist 18 et al: Executive Departments and Administration)
 9, K 260
- SB 597-FN**, relative to disability retirement benefits. (J. King, Dist 18 et al: Insurance)
 9, psd 181-182, 197, conc H am 807, enr 913 (Chapter 194)
- SB 598-LOCAL**, providing that special education state aid follows the pupil, and authorizing the commissioner of revenue administration to determine state and local per capita income. (Gordon, Dist 2 et al: Education)
New title: providing that special education state aid follows the pupil.
 9, am 177-178, psd 197, conc H am 809, enr 913 (Chapter 195)
- SB 599**, providing that school nurses shall be authorized to administer epinephrine for the emergency treatment of anaphylaxis, and setting forth the duties of school nurses in the control and prevention of communicable disease. (J. King, Dist 18 et al: Education)
First new title: providing that school nurses shall be authorized to possess and administer certain drugs for disease prevention and emergency treatment, setting forth the duties of school nurses in the control and prevention of communicable disease, and requiring an education and monitoring component for regulating medication administration in a hospice house.
Second new title: relative to school health services and the duties of school nurses, and requiring an education and monitoring component for regulating medication administration in a hospice house.
 9, am 104-105, psd 116, nonconc H am, conf 810-811, 908, rep adop 997-999, 1026, enr am 1041, enr 1057 (Chapter 277)
- SB 600-FN**, clarifying the authority of the division of air resources to issue facility-wide permits for sources not subject to Title V. (Rodeschin, Dist 8: Environment)
New title: clarifying the authority of the department of environmental services to issue facility-wide permits for sources not subject to title V.
 9, Finance 105-106, psd 407, 427, conc H am 736, enr am 1027-1030, enr 1059 (Chapter 278)
- SB 601-FN**, revising the air toxic control act. (Rodeschin, Dist 8; Rep. J. Bradley, Car 8: Environment)
 9, am 251-258, psd 308, conc H am 736, enr am 1091-1093, enr 1094 (Chapter 279)
- SB 602**, relative to pecuniary benefits for directors and officers of charitable trusts. (Podles, Dist 16: Public Affairs)
 9, K 281
- SB 603-FN**, relative to estate tax apportionments. (Gordon, Dist 2; Fraser, Dist 4: Ways and Means)
 9, psd 113, 116, H conc 725, enr 741 (Chapter 83)
- SB 604**, relative to the duties and obligations of health insurers to subscribers in group insurance plans. (J. King, Dist 18 et al: Insurance)
 9, K 271-272
- SB 605**, relative to insurance coverage for certain services. (Danaïs, Dist 20: Insurance)
 10, K 143

- SB 606**, relative to certification qualifications for marital mediators and prohibiting board involvement in training of marital mediators. (Cohen, Dist 24 et al: Executive Departments and Administration)
10, am 260-261, psd 308, H nonconc 727
- SB 607-FN-A-LOCAL**, lowering the business profits tax. (Lovejoy, Dist 6 et al: Ways and Means)
10, LT 148-149, K 911
- SB 608-FN-LOCAL**, requiring the department of safety to perform a background check to determine if an applicant for a motor vehicle registration is a wanted felon and deleting a waiver provision relating to retention of photo images and social security numbers. (Roberge, Dist 9; Colantuono, Dist 14: Transportation)
10, K 225-226
- SB 609-FN**, requiring the division of motor vehicles to report those in default of more than \$100 to a consumer reporting agency. (Roberge, Dist 9 et al: Transportation)
10, K 183
- SB 610**, relative to municipal water, gas and electric utilities. (Shaheen, Dist 21 et al: Executive Departments and Administration)
10, am 313-325, psd 385, nonconc H am, conf 812, 886, rep adop (unable to agree) 999, 1026
- SB 611**, relative to the duties of real estate licensees. (Fraser, Dist 4: Executive Departments and Administration)
10, am 261-264, psd 308, conc H am 746, enr 912 (Chapter 196)
- SB 612**, relative to successful completion of the impaired driver intervention program. (Roberge, Dist 9; Rep. Brundige, Hil 18: Judiciary)
New title: relative to the impaired driver intervention program.
10, am 108-109, psd 116, conc H am 900, enr am 1023, enr 1041 (Chapter 280)
- SB 613**, proclaiming December 7 of each year as National Pearl Harbor Remembrance Day. (Barnes, Dist 17: Public Affairs)
10, psd 133, conc H am 809, enr am 1023, enr 1041 (Chapter 281)
- SB 614**, authorizing licensing of alcohol and drug counselors. (Rodeschin, Dist 8: Executive Departments and Administration)
10, am 265-266, psd 308, H study 726
- SB 615**, relative to property left behind by tenants and relative to damage deposits for pets. (Stawasz, Dist 12: Public Affairs)
10, am 109-111, psd 116, nonconc H am, conf 811, 908, rep adop (unable to agree) 999, 1026
- SB 616**, relative to a spouse's name change upon divorce. (Gordon, Dist 2: Judiciary)
10, psd 109, 116, H conc 476, enr 496 (Chapter 32)
- SB 617-LOCAL**, enabling appointment of sewer commissioners and the establishment of municipal boards of public works commissioners. (Gordon, Dist 2; Rep. Phinney, Graf 8: Executive Departments and Administration)
10, am 106, psd 116, H conc 725, enr am 891, enr 913 (Chapter 197)
- SB 618**, relative to extended terms of imprisonment for certain DWI offenses. (Barnes, Dist 17 et al: Judiciary)
New title: relative to extended terms of imprisonment for stalking and for certain DWI offenses.
11, psd 95, 101, conc H am 861, enr am 891, enr 913 (Chapter 198)
- SB 619**, relative to the voluntary administration of estates. (Gordon, Dist 2; Rep. Hallyburton, Hil 12: Public Institutions, Health and Human Services)
11, am 221-223, psd 230, conc H am 900, enr 987 (Chapter 199)
- SB 620-FN**, postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years. (Rodeschin, Dist 8; Rep. McRae, Hil 7: Environment)
11, psd 179, 197, H nonconc 727
- SB 621-FN-LOCAL**, regulating the use of heating, agitating, and other devices in public waters. (Johnson, Dist 3: Fish & Game/Recreation)
New title: relative to the dam safety program in the department of environmental services and making an appropriation therefor; legalizing the Kingston town meeting; reinstating the corporate charter of Country Squire Realty Associates, Inc.; extending the reporting date of the legislative study committee established to examine the bumping rights of department of health and human services employees; and repealing a general fund appropriation reduction for the department of health and human services for fiscal year 1997.
11, am 181, psd 197, conc H am 900, enr 988 (Chapter 282)

- SB 622-FN**, relative to the custody of remains of deceased persons and the profession of embalmers and funeral directors. (Blaisdell, Dist 10: Executive Departments and Administration)
11, psd 142, 156, conc H am 900-901, enr 988 (Chapter 283)
- SB 623**, to provide an optional retirement program for employees of the department of regional community-technical colleges. (Fraser, Dist 4: Insurance)
New title: establishing a committee to study an optional retirement program for employees of the department of regional community-technical colleges.
11, am 207-209, psd 230, nonconc H am, conf 734, 742, rep adop 999-1000, 1026, enr 1057 (Chapter 284)
- SB 624**, establishing a committee to study ways to promote the safest hypodermic needle to eliminate the transmission of bloodborne diseases. (J. King, Dist 18 et al: Public Institutions, Health and Human Services)
11, K 223-224
- SB 625**, relative to insurance fraud. (Rodeschin, Dist 8: Insurance)
11, am & LT 161-162, am 171-172, psd 173, conc H am 735, recon notice 745, recon, nonconc H am, & conf 798, 881-882, rep adop 1000, 1026, enr am 1048, enr 1059 (Chapter 285)
- SB 626**, relative to the style and applicability of administrative rules. (Stawasz, Dist 12: Executive Departments and Administration)
11, K 266-267
- SB 627**, relative to insurance coverage for childbirth. (Shaheen, Dist 21 et al: Insurance)
11, psd 209-210, 230, nonconc H am 735
- SB 628-LOCAL**, relative to authority over certain accident scenes. (Stawasz, Dist 12: Transportation)
11, LT 226-227, 382, K 911
- SB 629**, relative to testamentary additions to trusts. (Gordon, Dist 2; Fraser, Dist 4: Judiciary)
11, am 217, psd 230, H conc 725, enr am 891, enr 987 (Chapter 200)
- SB 630-FN**, relative to outdoor advertising devices and permit fees. (F. King, Dist 1 et al: Transportation)
11, am 96-99, psd 101, H nonconc 727
- SB 631**, extending the reporting date of the retail wheeling and electric utility restructuring committee. (Rodeschin, Dist 8: Executive Departments and Administration)
11, psd 94, 101, conc H am 397, enr 432 (Chapter 14)
- SB 632**, requiring municipal water companies to provide notice and opportunity to certain tenants prior to termination of service. (Shaheen, Dist 21 et al: Public Affairs)
12, am 281-282, psd 308, conc H am 737, enr 865 (Chapter 139)
- SB 633-FN-A**, relative to victim restitution and compensation and making an appropriation therefor. (Rubens, Dist 5 et al: Judiciary)
First new title: relative to victim restitution and compensation and establishing an administrative fee on restitution payments to fund the operations of the division of field services, department of corrections.
Second new title: relative to victim restitution and compensation.
Third new title: relative to victim restitution and compensation, establishing a special fund, and relative to expenses for voluntary or court dispositional service plans and recovery of costs for a minor's support.
12, am & Finance 336-342, am 407-408, psd 427, nonconc H am, conf 811, 908, rep adop 1000-1008, 1026, enr am 1055, enr 1094 (Chapter 286)
- SB 634**, establishing a committee to study the feasibility of legislative review of judges and term limitations on judicial appointments. (Stawasz, Dist 12: Judiciary)
12, K 217-218
- SB 635-FN**, relative to cost of living adjustments for retired firefighters. (J. King, Dist 18 et al: Insurance)
New title: relative to cost of living adjustments for retired firefighters and relative to the special account for additional benefits held by the board of trustees of the New Hampshire retirement system.
12, Finance 162-163, psd 408-409, 427, nonconc H am, conf 807-808, 908, rep adop 1008, 1026, enr 1059 (Chapter 287)
- SB 636-FN-LOCAL**, requiring local land use boards to prepare a checklist containing the information necessary for submitting an application to the board. (Stawasz, Dist 12: Executive Departments and Administration)
12, LT 267-268, 381-382, am & K (RC) 382-384

- SB 637**, requiring the commissioner of the department of environmental services to study and recommend statutory changes establishing a fabric care environmental response program. (Blaisdell, Dist 10; Cohen, Dist 24: Environment)
12, am 179-180, psd 197, H nonconc 727
- SB 638**, relative to juvenile restitution and parental responsibility. (Rubens, Dist 5 et al: Judiciary)
12, K 280
- SB 639**, limiting the fees charged by ticket agencies. (Stawasz, Dist 12: Fish & Game/ Recreation)
12, K 106-107
- SB 640**, relative to acquisitions and mergers involving national banks. (Fraser, Dist 4: Banks)
First new title: relative to acquisitions and mergers involving national banks and relative to trust activities conducted in New Hampshire by out-of-state banks and conducted out-of-state by New Hampshire banks.
Second new title: relative to acquisitions and mergers involving national banks; relative to branch banking and bank holding company affiliates; relative to trust activities conducted in New Hampshire by out-of-state banks and conducted out-of-state by New Hampshire banks; and relative to certain securities exemptions.
12, am 239-242, psd 308, conc H am 736, enr am 1023-1024, enr 1041 (Chapter 288)
- SB 641**, establishing a committee to investigate the contract between Wheelabrator Concord, LP, and the New Hampshire/Vermont solid waste project. (Cohen, Dist 24; Rep. Cloutier, Sul 8: Environment)
12, K 180
- SB 642-FN-A**, establishing the office of small business advocate and making an appropriation therefor. (Lovejoy, Dist 6; Roberge, Dist 9: Executive Departments and Administration)
12, K 128
- SB 643-LOCAL**, requiring housing authorities to make the same payments in lieu of taxes as other nonprofit housing projects. (Stawasz, Dist 12: Ways and Means)
12, study 149
- SB 644**, clarifying the definition of a meeting under the right-to-know law. (Stawasz, Dist 12: Public Affairs)
13, K 220-221
- SB 645-FN-A**, relative to congregate housing and making an appropriation therefor. (Podles, Dist 16 et al: Public Institutions, Health and Human Services)
13, Finance 224, LT (RC) 412-415, K 911
- SB 646-FN**, allowing certain prisoners to earn good conduct credits reducing such person's minimum sentence and permitting certain prisoners to be sentenced to substance abuse treatment centers. (J. King, Dist 18 et al: Judiciary)
New title: establishing a committee to study alternative sentencing for persons convicted of drug-related offenses and nonviolent crimes.
13, LT 227-228, am 375-378, psd 385, nonconc H am, conf 882, rep adop (unable to agree) 1008, 1026
- SB 647-FN**, permitting holders of certain licenses to sell premium beer. (J. King, Dist 18 et al: Ways and Means)
New title: permitting holders of certain licenses to sell specialty beer.
13, am 113-114, psd 116, H conc 743, enr am 1024, enr 1041 (Chapter 289)
- SB 648-FN-LOCAL**, relative to child support. (Podles, Dist 16 et al: Judiciary)
13, am 342-352, psd 385, H study 726, remarks 766-767, 845
- SB 649-FN**, relative to the definition of "self-support reserve" used in determining an obligor's child support obligation. (Stawasz, Dist 12: Judiciary)
13, K 218
- SB 650-FN**, exempting real and personal property of a decedent from the legacies and successions tax when such property passes to or for the use of the siblings of the decedent. (Stawasz, Dist 12: Ways and Means)
13, K 99-100
- SB 651**, providing for horse racing purse parity. (Fraser, Dist 4 et al: Ways and Means)
First new title: redistributing breakage for running horse races and establishing a committee to examine certain aspects of the pari-mutuel industry.
Second new title: providing for horse racing purse parity, relative to taxes on simulcast dog racing, and establishing a committee to examine certain aspects of the pari-mutuel industry.

- Third new title:** relative to taxes on simulcast dog racing and establishing a committee to examine certain aspects of the pari-mutuel industry.
- Fourth new title:** establishing a temporary tax rate in simulcast dog racing, establishing a committee to examine certain aspects of the pari-mutuel industry, and establishing a temporary breakage distribution for certain running horse races.
13, am & Finance 149-151, com changed 309, am, Finance, rules suspended, & am 419-426, remarks 426, psd 427, conc H am (RC) 895-898, enr 987 (Chapter 201)
- SB 652-FN**, authorizing the sweepstakes commission to establish a pilot program for electronic games of chance. (Fraser, Dist 4: Ways and Means)
13, LT 100, K 911
- SB 653-FN**, establishing the parent and pupil rights law. (Wheeler, Dist 11; Roberge, Dist 9: Education)
13, am 249-251, psd 308, H nonconc 727
- SB 654-FN**, relative to fees for certain hunting and fishing licenses. (Pignatelli, Dist 13 et al: Fish & Game/Recreation)
13, am 128-131, psd 133, conc H am 883, enr 987 (Chapter 202)
- SB 655-LOCAL**, requiring criminal history records checks for employment applicants if the position would require such applicants to be on school property or with students and requiring termination of school employees convicted of certain crimes. (Roberge, Dist 9 et al: Education)
13, K 140
- SB 656-FN**, expanding drug-free school zones to include Head Start facilities. (Shaheen, Dist 21 et al: Education)
13, am 178-179, psd 197, nonconc H am, conf 812, 908-909, rep adop 1008-1009, 1026, enr 1059 (Chapter 290)
- SB 657**, extending the deadline of the employee assistance program study committee. (J. King, Dist 18: Executive Departments and Administration)
14, psd 94, 101, H conc 476, enr 576 (Chapter 59)
- SB 658**, requiring the division of personnel, coordinator of training to cooperate with the university system regarding the training of state employees. (J. King, Dist 18: Education)
14, psd 126, 133, H nonconc 476
- SB 659**, allowing self-employed persons or business owners who have paid into the unemployment compensation fund to collect benefits. (Danaïis, Dist 20: Insurance)
New title: disqualifying individuals who leave self-employment or close a business from receiving unemployment compensation benefits.
14, am 163, psd 173, nonconc H am, conf 733-734, 742, rep adop 1009, 1026, enr 1059 (Chapter 291)
- SB 660**, relative to the central registry in the department of health and human services. (J. King, Dist 18; Rep. S. Holley, Hil 28: Public Institutions, Health and Human Services)
14, study (RC) 354-356
- SB 661-FN**, increasing the limit of a nonlapsing revolving fund established in the division of personnel for state and municipal employee training and education. (J. King, Dist 18 et al: Finance)
14, K 409-410
- SB 662-FN**, relative to real estate appraisers. (Wheeler, Dist 11 et al: Public Affairs)
14, com changed 15, am 325-328, psd 385, H nonconc 727
- SB 663**, relative to lead paint insurance coverage and lead paint risk reduction. (Wheeler, Dist 11; Rep. Herman, Hil 13: Public Institutions, Health and Human Services)
14, am 356-370, psd 385, H study 726
- SB 664**, relative to remedies against licensing authorities for failure to comply with state laws regarding licenses to carry pistols and revolvers. (Colantuono, Dist 14: Judiciary)
14, am (RC) 280-281, recon & psd (RC) 281, psd 308, H conc 476, enr 799 (Chapter 122)
- SB 665-FN**, relative to liquor licenses for a sports/entertainment complex. (Shaheen, Dist 21 et al: Ways and Means)
85, LT 151-154, am 293-298, psd 308, H nonconc 727
- SB 666-FN-A**, relative to a multi-jurisdictional fuel tax agreement. (Currier, Dist 7; Rep. G. Katsakiores, Rock 13: Interstate Cooperation)
New title: relative to the administration of motor vehicle laws pertaining to road tolls, and to a multi-jurisdictional fuel tax agreement.
85, am & Finance 163-164, psd 336, 385, conc H am 907, enr am 1030, enr 1040 (Chapter 292)

- SB 667**, naming the new Coos county courthouse the John D. Morton, Sr. courthouse. (F. King, Dist 1: Public Affairs)
New title: dedicating the new Coos County Justice Center to the memory of the late John D. Morton, Sr.
 rules suspended & intro 156-157, psd 282-283, 308, conc H am 810, enr 912 (Chapter 203)

SENATE JOINT RESOLUTIONS

1995 SENATE JOINT RESOLUTION REREFERRED TO COMMITTEE

- SJR 2**, urging the New Hampshire public utilities commission to urge the Federal Energy Regulatory Commission to favorably consider certain privately owned electric utilities. (Executive Departments and Administration)
 K 23

1996 SENATE JOINT RESOLUTION

- SJR 20**, establishing the New Hampshire Commission on the Smithsonian Festival of American Folklife featuring New Hampshire to be held on the National Mall in Washington, D.C., in 1999. (Rodeschin, Dist 8 et al: Public Affairs)
 14, psd 143, 156, H conc 726, enr am 892, enr 912 (Chapter 204)

SENATE CONCURRENT RESOLUTIONS

- SCR 20**, demanding that the federal government cease enacting mandates that are beyond the scope of the 10th Amendment to the United States Constitution. (Lovejoy, Dist 6: Public Affairs)
 14, LT 143, adop (RC) 170-171, 173, H conc 726
- SCR 21**, urging the President of the United States and Congress to establish an independent commission to advise Congress on campaign finance reform legislation. (Pignatelli, Dist 13 et al: Public Affairs)
 14, rcmt 143-145, am (RC) 164-168, adop 173, H conc 726
- SCR 22**, memorializing S. Christa McAuliffe. (Delahunty, Dist. 22 et al)
 intro & adop 115-116, H conc 117

SENATE RESOLUTIONS

- SR 2**, condemning the Nationalist Movement and its message of white supremacy, racism, homophobia, anti-Semitism, and hatred. (Cohen, Dist 24)
 intro & adop 67-68
- SR 3**, requesting an opinion of the justices concerning the constitutionality of HB 1549. (Podles, Dist 16)
 rules suspended, intro, & adop 707
- SR 4**, not introduced.
- SR 5**, expressing the senate's position regarding the enforcement of state law concerning community rating methodologies with respect to McDonald's franchisees in the state of New Hampshire. (Fraser, Dist 4)
 intro & adop 944-945
- SR 6**, requesting an opinion of the justices concerning the constitutionality of HB 1549 and withdrawing a previous request for an opinion of the justices. (Podles, Dist 16)
 intro & adop 1009-1010

HOUSE BILLS

1995 HOUSE BILLS REREFERRED TO COMMITTEE

- HB 151 FN**, establishing a special license plate program, including related fees. (Transportation)
 136, am & Finance 482, psd 749, 800, H nonconc, conf 901, rep adop 919-921, 1024, enr 1039 (Chapter 206)
- HB 175-FN**, relative to cooperative school districts. (Education)
 86, psd 496-497, 534, enr am 917-918, enr 987 (Chapter 158)
- HB 275**, encouraging businesses to conduct environmental self-audits. (Environment)
 86, psd 181, 197, enr 238 (Chapter 4)

- HB 277**, relative to the joint health council. (Public Institutions, Health and Human Services)
86, psd 524-525, 534, enr 741 (Chapter 69)
- HB 281**, relative to admission requirements for the veterans' home and changing the composition of the board of managers. (Executive Departments and Administration)
New title: changing the composition of the board of managers of the veterans' home.
86, am 447-448, psd 473, H nonconc, conf 812-813, rep adop 921-922, 1024, enr 1058 (Chapter 207)
- HB 283**, relative to the applicatoin of state banking laws, relative to loan loss reserves, and repealing provisions regarding guaranty funds for savings banks and building and loan associations. (Banks)
K 17
- HB 301**, prohibiting certain evidence in sexual assault cases. (Judiciary)
LT 155, am 172-173, psd 173, H conc 229, enr 238 (Chapter 5)
- HB 306**, establishing a family resource council to address the efficient delivery of services to children and families. (Public Institutions, Health and Human Services)
136, K 572
- HB 331-L**, establishing one elderly exemption to replace the standard elderly exemption and the current optional elderly exemption laws. (Public Affairs)
86, am 561-562, psd 577, H conc 744, enr 909 (Chapter 140)
- HB 345-L**, relative to voluntary payments in lieu of taxes and establishing a committee to recommend legislative changes regarding voluntary payments in lieu of taxes. (Ways and Means)
New title: relative to voluntary payments in lieu of taxes.
86, rcmt 471-472, am 603-604, psd 629, H nonconc, conf 885, rep adop 922, 1024, enr 1039 (Chapter 208)
- HB 378-FN-L**, relative to school employee background investigations. (Education)
136, rcmt 497, study 582
- HB 417**, relative to investments by town trustees. (Banks)
New title: relative to investments of public funds by trustees.
am 17-23, psd 69, H nonconc, conf 117, rep adop 922-924, 1024, enr am 1044, enr 1059 (Chapter 209)
- HB 420**, relative to habitability in manufactured housing parks. (Public Affairs)
86, LT 562-563, am 721-722, psd 723, H conc 744, enr 865 (Chapter 125)
- HB 471-FN**, relative to the department of corrections, including a corrections impact statement and submission of correctional reports, abolishing the division of adult services, and changing the title of the warden of the department of corrections. (Executive Departments and Administration)
New title: relative to the department of corrections, including a corrections impact statement, abolishing the division of adult services, and changing the title of the warden of the department of corrections.
86, am 448-449, psd 473, H conc 630, enr am 862, enr 911 (Chapter 159)
- HB 473-FN-A-L**, establishing the distance learning commission. (Education)
86, am 582, psd 629, H conc 725, enr 741 (Chapter 70)
- HB 475-L**, enabling municipalities to create regional transit districts. (Transportation)
86, psd 288-289, 308, enr 397 (Chapter 6)
- HB 477-FN**, regulating motor vehicle leasing. (Transportation)
86, am 457-471, psd 473, H conc 630, enr 799 (Chapter 85)
- HB 486-FN**, relative to lease agreements for state equipment. (Executive Departments and Administration)
am 51, psd 69, H conc 101, enr 118 (Chapter 1)
- HB 501-FN-L**, relative to public employee collective bargaining. (Executive Departments and Administration)
86, LT 434-435, K (RC) 436
- HB 510-FN**, relative to the sale of fireworks. (Judiciary)
K 62
- HB 520-FN-L**, relative to the regulation of rural electric cooperatives by the public utilities commission. (Executive Departments and Administration)
86, rcmt 512, K 542

- HB 530-FN**, transferring the functions and duties of the director of state ski operations. (Fish and Game/Recreation)
New title: abolishing the position of the director of state ski operations and transferring the director's duties, and relative to state ski operations revenue.
 136, am & Finance 410-411, am 749, psd 800, H nonconc, conf 885-886, LT 924-925, rep rej, new conf 985-986, rep adop 1019-1020, 1024, enr am 1038, enr 1057 (Chapter 210)
- HB 533-FN**, relative to retirement benefits for the state treasurer. (Insurance)
 136, Finance 730, am 817, psd 864, H conc 878, enr 986 (Chapter 160)
- HB 547-FN-L**, establishing a deferred compensation plan for volunteer firefighters. (Executive Departments and Administration)
 136, com changed 398, am 683-684, psd 723, H conc 744, enr am 888-889, enr 1040 (Chapter 211)
- HB 565-FN-L**, establishing a study committee to develop a methodology for reimbursing municipalities which host state facilities and university system properties for the financial impact of such facilities and properties. (Finance)
 86, K 817-821
- HB 580-FN**, allowing the formation of and regulating limited liability partnerships and providing for registration fees. (Banks)
New title: allowing the formation of and regulating limited liability partnerships, providing for registration fees, and relative to the application of the real estate transfer tax.
 136, am 635-647, psd 723, H conc 744, enr am 913-914, enr 1040 (Chapter 212)
- HB 594-FN-LOCAL**, requiring employers to report to the department of employment security the names of individuals hired or rehired, which information is used by the division of human services in child support enforcement and making an appropriation therefor. (Public Institutions, Health and Human Services)
 K 63
- HB 606-L**, excluding certain welfare recipients from the definition of public employee under the workers' compensation law. (Insurance)
New title: including certain welfare recipients in the definition of public employee under the workers' compensation law.
 86, am 684-685, psd 723, H conc 744, enr am 914, enr 1040 (Chapter 213)
- HB 610-L**, integrating changes in the municipal budget act into the laws relating to towns and school districts. (Executive Departments and Administration)
 86, am 663-665, psd 723, H nonconc, conf 886, rep adop 925-926, 1024, enr 1093 (Chapter 214)
- HB 647-FN-A**, establishing a municipal bridge repair and a department of transportation "on the shelf" program and continually appropriating the municipal bridge repair and the department of transportation "on the shelf" account and relative to the payment of certain bonds. (Transportation)
New title: relative to transfers from the highway surplus account, relative to tolls charged on the Cheshire Bridge, and requiring that warrant articles concerning the issuance of bonds or notes by the town of Bedford be in accordance with the town charter.
 136, am & Cap Budget 439-440, LT 746-747, am 802-806, psd 864, H conc 894, enr 913 (Chapter 156)

1996 BILLS

- HB 1025-FN-LOCAL**, relative to a 10-year transportation plan, relative to the Derry local exit on I-93, and extending the lapse dates for certain capital appropriations to the department of transportation. (Capital Budget)
 rules suspended & intro 728-729, am 747-748, psd 800, H nonconc, conf 902, rep adop 926, 1024, enr 1057 (Chapter 215)
- HB 1100**, relative to the cutting of timber. (Environment)
 386, psd 476-477, 485, enr 798 (Chapter 86)
- HB 1104**, relative to illegal night hunting. (Fish and Game/Recreation)
 233, K 682
- HB 1105**, relative to hunting while intoxicated and implied consent to administer alcohol or controlled drug tests, and permitting evidence of the refusal of consent in certain legal proceedings. (Fish and Game/Recreation)
 391, psd 557, 577, enr 801 (Chapter 87)

- HB 1107**, relative to the operation of OHRVs. (Transportation)
235, psd 482-483, 485, enr am 627, enr 741 (Chapter 63)
- HB 1110-FN**, establishing a study committee relative to electronic information in state government. (Executive Departments and Administration)
First new title: relative to the acceptance of gifts of personal property valued at over \$5,000 donated to public libraries.
Second new title: relative to the acceptance of gifts of personal property valued at over \$5,000 donated to public libraries and establishing a task force on electronic information in state government.
232, am 665-666, psd 723, H nonconc, conf 813, rep adop 927-928, 1024, enr am 1044, enr 1059 (Chapter 216)
- HB 1112**, establishing a committee to study the investment practices of the New Hampshire retirement system. (Insurance)
232, K 437
- HB 1113**, relative to the order of names on state primary election ballots. (Public Affairs)
New title: relative to the order of names on state primary election ballots and to political advertising and relative to a contingent nullification.
235, am 563-564, psd 577, recon notice, recon, & am 714-715, psd 724, H conc 744, enr 801 (Chapter 88)
- HB 1118-FN**, establishing a committee to study issues relative to groups and salary ranges which reflect the responsibilities of unclassified employees, excepting the constitutional officers. (Executive Departments and Administration)
138, study 449
- HB 1119**, allowing an option for reconsideration of votes at village district meetings and relative to the powers of the town of Conway concerning governance of its fire precincts. (Public Affairs)
137, psd 455, 473, enr am 717, enr 742 (Chapter 64)
- HB 1120**, allowing towns to adopt a warrant article to accept personal property donated to libraries. (Public Affairs)
137, psd 455, 473, enr 628 (Chapter 33)
- HB 1122**, modifying the term "compact area" relative to the use of firearms and fireworks. (Executive Departments and Administration)
New title: modifying the term "compact area" relative to the use of firearms.
391, am 666, psd 724, H conc 744, enr 912 (Chapter 161)
- HB 1124**, relative to the Merrimack county treasurer. (Public Affairs)
137, psd 416, 427, enr 432 (Chapter 16)
- HB 1125**, relative to roads to private recreational areas. (Fish and Game/Recreation)
137, psd 412, 427, enr 432 (Chapter 9)
- HB 1126-FN**, relative to the comprehensive shoreland protection act. (Environment)
232, psd 401, 427, enr 432 (Chapter 17)
- HB 1129**, relative to the Laconia airport authority and relative to the Manchester airport. (Transportation)
232, am 440-441, psd 445, H conc 630, enr 741 (Chapter 71)
- HB 1131-FN-A**, relative to the Women's War Memorial in Arlington, Virginia, and making an appropriation therefor. (Public Affairs)
235, psd 492, 494, enr 496 (Chapter 15)
- HB 1132**, reinstating the charter of Polar Graphics, Inc. (Public Affairs)
New title: reinstating the corporate charters of Polar Graphics, Inc. and Capitol Alarm Systems, Inc and amending the charter of Saint-Gaudens Memorial.
232, am 564-565, psd 577, H conc 716, enr 798 (Chapter 89)
- HB 1134-FN** - relative to registration of certain criminal offenders. (Judiciary)
First new title: relative to registration of certain criminal offenders and relative to the registration and fees for semi-trailers.
Second new title: relative to the registration of certain criminal offenders.
429, Finance 595, am 821-823, psd 864, H nonconc, conf 903, rep adop 928, 1024, enr am 1044-1047, enr 1059 (Chapter 293)
- HB 1135-L**, creating a penalty for the unauthorized posting of property. (Fish and Game/Recreation)
233, K 557
- HB 1138**, requesting the judicial council to study issues regarding jury duty. (Judiciary)
391, psd 595, 629, enr 798 (Chapter 90)

- HB 1139-L**, relative to the powers of the town of Sunapee concerning governance of the Sunapee water and sewer system. (Public Affairs)
137, am 565-566, psd 577, H conc 716, enr 798 (Chapter 91)
- HB 1140-FN**, repealing the health insurance coverage survey. (Insurance)
137, psd 437, 445, enr 496 (Chapter 18)
- HB 1141**, relative to youth employment. (Public Institutions, Health and Human Services)
386, K 525
- HB 1142**, relative to disclosure language contained in agreements to locate abandoned property. (Public Affairs)
236, com changed 309, K 435
- HB 1143**, increasing the civil penalties for violations of certain labor statutes and authorizing the commissioner of labor to seek injunctions against noncomplying employers or owners. (Insurance)
386, psd 452, 473, enr 576 (Chapter 34)
- HB 1144**, relative to criminal threatening. (Judiciary)
232, psd 452, 473, enr 798 (Chapter 92)
- HB 1145-FN-L**, authorizing municipalities to charge fees for certain administrative costs connected with excavation permits. (Environment)
392, am 505-506, psd 534, H conc 744, enr 909 (Chapter 141)
- HB 1146**, relative to school bus safety and exempting certain buses from the road toll. (Transportation)
392, psd 441, 445, enr 496 (Chapter 19)
- HB 1149-L**, relative to permits issued prior to burning materials. (Environment)
138, LT 506, K 911
- HB 1151**, relative to penalties for persons convicted of class B misdemeanors and violations and relative to parole revocation hearings. (Judiciary)
233, am 452-453, psd 473, H conc 630, enr 799 (Chapter 93)
- HB 1152**, relative to periodic payments of judgments by civil defendants. (Judiciary)
236, psd 453, 474, enr 627 (Chapter 35)
- HB 1154**, establishing kindergarten planning assistance and maintenance aid programs, and making an appropriation therefor. (Education)
429, Finance 729, K (RC) 823-828
- HB 1155**, relative to the terms for alternate members of zoning boards of adjustment. (Public Affairs)
236, psd 455-456, 474, enr am 889, enr 1040 (Chapter 217)
- HB 1156**, relative to aircraft landings. (Transportation)
137, am 710-711, psd 724, H nonconc, conf 813-814, rep adop 929, 1024, enr 1039 (Chapter 218)
- HB 1159**, reducing the mandatory minimum sentence for habitual offenders convicted of unlawfully operating a motor vehicle. (Judiciary)
236, K 595-596
- HB 1160**, establishing a committee to study college tuition savings plans for New Hampshire colleges. (Education)
137, psd 433, 445, enr am 494, enr 742 (Chapter 65)
- HB 1161**, relative to the information required on the state primary and state general election ballots, voter checklists of cities and towns, candidate and party nominations, nomination papers, and absentee ballots. (Public Affairs)
236, psd 439, 446, enr am 534, enr 727 (Chapter 36)
- HB 1162-FN**, relative to making a supplemental appropriation for the veterinary diagnostic laboratory in the agriculture experiment station at the university of New Hampshire. (Fish and Game/Recreation)
429, Finance 682, am 749-750, psd 800, H conc 878, enr 986 (Chapter 162)
- HB 1163-FN**, requiring archery license applicants to complete a mandatory bow hunter education course. (Fish and Game/Recreation)
392, psd 682, 724, enr 799 (Chapter 94)
- HB 1164**, making it illegal to train dogs to hunt bobcat. (Fish and Game/Recreation)
New title: making it illegal to train dogs to hunt bobcat and relative to the issuance of training permits and rulemaking by the executive director.
392, psd 682, 724, enr am 797, enr 865 (Chapter 126)

- HB 1167**, relative to voluntary limits on campaign expenditures. (Public Affairs)
236, LT 456, 723, K 911
- HB 1168-L**, relative to maintaining local control over certain franchises and allowing municipalities to coordinate franchising authorities. (Public Affairs)
392, psd 566, 577, enr 741 (Chapter 72)
- HB 1169**, authorizing the department of health and human services to impose administrative fines on certain nursing homes. (Public Institutions, Health and Human Services)
392, am 493, psd 494, H conc 878, enr 987 (Chapter 163)
- HB 1170**, prohibiting a sworn law enforcement officer from holding a private detective's license. (Executive Departments and Administration)
392, psd 449, 474, enr 576 (Chapter 37)
- HB 1171-FN**, relative to fees for number plates. (Transportation)
236, Finance 441, am 750, psd 800, H nonconc, conf 886-887, rep adop (unable to agree) 929, 1024
- HB 1172**, relative to bridge regulations. (Transportation)
136, psd 441, 446, enr 576 (Chapter 38)
- HB 1173-FN-L**, relative to juvenile court proceedings and victim's rights in the context of delinquency proceedings. (Judiciary)
New title: relative to juvenile court proceedings and victims' rights in the context of delinquency proceedings.
392, am 596-597, psd 629, H nonconc, conf 887, rep adop 930-932, 1024, enr am 1044, enr 1059 (Chapter 294)
- HB 1175**, repealing the law requiring general court members to list emergency interim successors, repealing the law establishing a joint committee on implementation of reorganization relative to the executive branch, and allowing the governor to appoint a designee on the local government advisory committee. (Executive Departments and Administration)
392, psd 450, 474, enr 627 (Chapter 39)
- HB 1177-FN**, relative to the state board of licensing for foresters. (Environment)
429, psd 591, 629, enr 909 (Chapter 142)
- HB 1180**, relative to the rulemaking authority of the commissioner of transportation relating to the turnpike system. (Executive Departments and Administration)
New title: relative to the rulemaking authority of the commissioner of transportation relating to the turnpike system and relative to the duration of state registration certificates.
232, am 450-451, psd 474, H conc 630, enr 798 (Chapter 95)
- HB 1181**, establishing a committee to study issues regarding the administrative practices of boards which regulate occupations and professions in New Hampshire. (Executive Departments and Administration)
236, K 435
- HB 1186-FN**, requiring the executive director of the department of fish and game to adopt rules regulating fishing tournaments, including rules regarding waivers of tournament fees. (Fish and Game/Recreation)
429, psd 593, 629, enr 728 (Chapter 73)
- HB 1189-FN**, changing the fee charged by towns and cities for uncollectible checks. (Public Affairs)
232, psd 566, 577, enr 741 (Chapter 74)
- HB 1192**, relative to the definition of developed waterfront property. (Environment)
392, psd 506, 534, enr 1093 (Chapter 219)
- HB 1193-FN-L**, relative to department of revenue administration reporting requirements relative to a yield tax on timber, establishing an exception from RSA 541-A:16, I(b) for tax filing forms, and removing a budget footnote. (Ways and Means)
New title: relative to department of revenue administration reporting requirements relative to a yield tax on timber, establishing an exception from RSA 541-A for requirements on certain tax filing forms, and removing a budget footnote.
386, am & Finance 604-605, am 751-752, psd 800, H conc 878, enr 987 (Chapter 164)
- HB 1194**, clarifying the definition of tenancy to exclude campgrounds and camping parks recreational vehicles used at motorsport racing facilities and exempting from certain aspects of the laws regulating campgrounds and camping parks. (Fish and Game/Recreation)

New title: exempting motorsport events from certain aspects of the law regulating campgrounds and camping parks.
236, am 489-490, psd 495, H nonconc, conf 737-738, rep adop 932-933, 1024, enr am 1038, enr 1057 (Chapter 220)

HB 1196, relative to the statute of limitations on claims under the consumer protection statutes. (Judiciary)
236, am 597, psd 629, H conc 744, enr 912 (Chapter 165)

HB 1197-L, reclassifying certain roads in the towns of Boscawen and Hampstead. (Transportation)
136, psd 441, 446, enr 496 (Chapter 20)

HB 1199, relative to the New Hampshire statewide trail system advisory committee. (Fish and Game/Recreation)
138, am 412, psd 427, H conc 475, enr am 1074-1075, enr 1094 (Chapter 221)

HB 1203-L, excluding pupils in home education programs from average daily membership in cooperative school district apportionment formulas, and deleting the date for notification for home education. (Education)
138, am 497-503, psd 534, H conc 878, enr am 1031-1034, enr 1058 (Chapter 222)

HB 1207, relative to coinsurance payments for covered services. (Insurance)
392, rcmt 516-517, am 685-686, psd 724, H nonconc, conf 883 (H IP)

HB 1208, requiring consumer credit reporting agencies collecting data on a national basis to provide a consumer with one free consumer report annually. (Banks)
392, K 579

HB 1210, amending the workers' compensation law to provide an exemption from coverage requirements for nonresident employees. (Insurance)
392, am 478-480, psd 485, H conc 630, enr 894 (Chapter 143)

HB 1211, prohibiting the denial of insurance coverage based on the perception or possibility that the prospective insured is a victim of domestic abuse or violence. (Insurance)
392, psd 491, 495, enr 627 (Chapter 40)

HB 1212, relative to the powers of trustees under the Uniform Trustees' Powers Act. (Banks)
392, psd 579, 629, enr 798 (Chapter 96)

HB 1220-FN-L, providing that the state shall apply for and utilize moneys from the Goals 2000 - Educate America Act. (Education)
387, am (RC) 647-656, psd 724, H conc 807, enr 817, remarks 848-856, H sustained veto 1094

HB 1221, relative to operating emergency vehicles while intoxicated. (Judiciary)
392, K 454

HB 1222, establishing a council on applied technology and innovation. (Executive Departments and Administration)
392, am 666-667, psd 724, H conc 806, enr 894 (Chapter 144)

HB 1224-FN, authorizing the state to acquire certain property adjacent to Black Mountain State Forest. (Fish and Game/Recreation)
236, psd 436, 446, enr 496 (Chapter 21)

HB 1227-FN, transferring the town of Litchfield from the Nashua District Court to the Merrimack District Court. (Judiciary)
136, psd 415, 427, enr 496 (Chapter 22)

HB 1228-FN, requiring the executive director of the department of fish and game to provide copies of fish and game statutes to the members of the house wildlife and marine resources committee and the senate fish and game/recreation committee. (Fish and Game/Recreation)
New title: requiring the executive director of the department of fish and game to provide copies of fish and game statutes, if available as a single publication from a commercial publisher, without charge only upon request of the members of the house wildlife and marine resources committee and the senate fish and game/recreation committee.
233, am 557-558, psd 577, H conc 716, enr 798 (Chapter 97)

HB 1229-FN-A, allowing owners of privately owned airports to receive partial state reimbursement grants for local property taxes paid on certain areas of such airports and making an appropriation therefor. (Ways and Means)
387, am & Finance 531-532, psd 752, 800, H conc 894, enr 913 (Chapter 166)

- HB 1233**, establishing a 55 mile per hour speed limit for OHRVs travelling on the frozen surface of Turtle Pond, also known as Turtle Town Pond in the city of Concord and establishing joint responsibility between the city of Concord and the state of New Hampshire for the enforcement of such speed limit. (Transportation)
393, psd 483, 485, enr 576 (Chapter 41)
- HB 1238**, relative to the use of the official ballot for changing the manner in which planning board members are selected in towns. (Public Affairs)
236, psd 456, 474, enr 576 (Chapter 42)
- HB 1239-FN**, relative to the regulatory authority of the state board of auctioneers and professional standards for auctioneers. (Executive Departments and Administration)
232, K 513
- HB 1244-FN**, relative to aeronautical carriers. (Transportation)
236, psd 442, 446, enr 496 (Chapter 23)
- HB 1252-FN-A-LOCAL**, establishing a local education improvement assistance program and making an appropriation therefor. (Education)
430, K (RC) 582-583
- HB 1253-FN-A**, relative to senior "meals on wheels" and senior transportation and making an appropriation therefor. (Public Institutions, Health and Human Services)
New title: relative to senior "meals on wheels" and senior transportation and transferring certain funds.
137, am (RC) & Finance 769-770, psd 828, 864, H conc 878, enr 986 (Chapter 205)
- HB 1258**, establishing a committee to study medication management for patients with prescriptive drugs. (Public Institutions, Health and Human Services)
137, K 481
- HB 1259**, allowing independent professionals to be owners of professional corporations or professional limited liability companies. (Executive Departments and Administration)
236, psd 436, 446, enr 496 (Chapter 24)
- HB 1264**, restricting the sale of certain items. (Public Institutions, Health and Human Services)
236, LT 573, K 911
- HB 1265**, relative to payment of utilities by tenants of manufactured housing parks. (Public Affairs)
236, LT 566-567, psd 723, 724, enr 865 (Chapter 127)
- HB 1266**, relative to disclosure of fees charged by owners and operators of electronic customer service terminals for use of such terminals. (Executive Departments and Administration)
236, com changed 238, psd 398, 427, enr 432 (Chapter 10)
- HB 1267**, relative to retail licenses to sell pistols and revolvers. (Executive Departments and Administration)
New title: relative to retail licenses to sell pistols and revolvers and to licenses to carry pistols and revolvers.
393, am 513-514, psd 534, H conc 744, enr 912 (Chapter 167)
- HB 1268**, relative to the method for repealing a zoning ordinance and defining a person aggrieved in an appeal from a decision on motion for rehearing. (Executive Departments and Administration)
236, psd 436, 446, enr 576 (Chapter 43)
- HB 1270-L**, allowing school administrative units to establish advisory budget or finance committees under the municipal budget law. (Education)
393, psd 583-584, 629, enr 801 (Chapter 98)
- HB 1271-FN**, relative to exposure to infectious disease. (Public Institutions, Health and Human Services)
138, Finance 439, psd 752, 800, enr 909 (Chapter 145)
- HB 1274-FN**, relative to rights-of-way to certain bodies of water. (Environment)
393, psd 433, 446, enr 496 (Chapter 25)
- HB 1282**, allowing certain liquor licensees to conduct beverage, liquor, or wine tastings on licensed premises. (Ways and Means)
393, psd 484, 485, enr 576 (Chapter 44)
- HB 1285**, prohibiting sobriety check points. (Transportation)
New title: authorizing sobriety check points in certain situations.
237, am 711-712, psd 724, H nonconc, conf 814, rep adop 933, 1024, enr 1039 (Chapter 301)

- HB 1286**, relative to the suspension and expulsion of pupils. (Education)
393, am 503-504, psd 534, H conc 878, enr 987 (Chapter 168)
- HB 1287**, allowing federal income tax withholding from unemployment compensation. (Ways and Means)
232, psd 484, 485, enr 628 (Chapter 45)
- HB 1288**, relative to pesticide product registration and establishing a study committee of pesticide product registration policies. (Environment)
First new title: establishing a study committee of pesticide product registration policies.
Second new title: establishing a study committee on pesticide product registration policies.
430, am 536-537, psd 577, H nonconc, conf 738, rep adop 933-934, 1024, enr am 1038, enr 1057 (Chapter 223)
- HB 1289-L**, relative to restrictions on waters used as a public water supply. (Environment)
First new title: relative to restrictions on waters used as a public water supply, requiring municipal approval for certain water withdrawals and relative to state water pollution control and drinking water revolving loan funds.
Second new title: relative to restrictions on waters used as a public water supply, requiring notification to municipalities for certain water withdrawals, and relative to state water pollution control and drinking water revolving loan funds.
393, am 506-508, psd 534, H nonconc, conf 732, rep adop 934-935, 1025, enr am 1038, enr 1057 (Chapter 224)
- HB 1291**, relative to vandalism and criminal mischief. (Judiciary)
393, am 597-598, psd 629, H nonconc, conf 883-884, rep adop 935-936, 1025, enr am 1037, enr 1058 (Chapter 225)
- HB 1297**, relative to the form of the citizenship affidavit. (Public Affairs)
137, psd 456, 474, enr 986 (Chapter 169)
- HB 1298**, relative to driver's licenses and motor vehicle registrations for members of the armed forces and their spouses. (Transportation)
393, am 525-526, psd 534, H conc 744, enr 865 (Chapter 128)
- HB 1300**, relative to the enforcement of zoning regulations. (Economic Development)
393, am 580-581, psd 629, H nonconc, conf 814-815, rep adop 936-937, 1025, enr 1057 (Chapter 226)
- HB 1301**, relative to adoption procedures. (Judiciary)
232, am 415-416, psd 427, H conc 475, enr 628 (Chapter 46)
- HB 1302**, establishing a committee to study methods of improving telecommunication services to the North Country and other rural areas. (Economic Development)
237, am 476, psd 485, H conc 631, enr 801 (Chapter 99)
- HB 1303**, relative to the rulemaking authority of the commissioner of transportation. (Executive Departments and Administration)
New title: relative to the rulemaking authority of the commissioner of transportation, removing a requirement for a written agreement for reimbursement for certain planning and design work performed by the division of public works, and revising the definition of "aircraft."
393, am 667-668, psd 724, H conc 744, enr am 889, enr 1040 (Chapter 227)
- HB 1306**, exempting certain outpatient facilities under the licensure law. (Executive Departments and Administration)
New title: exempting certain health clinics under the licensure law.
137, com changed 398, am 517, psd 534, H conc 744, enr 909 (Chapter 146)
- HB 1307**, relative to the interstate emergency management compact. (Interstate Cooperation)
393, psd 438, 446, enr 496 (Chapter 26)
- HB 1311**, requiring banks to cash state financial assistance benefit checks. (Banks)
393, K 579
- HB 1314**, reorganizing the department of environmental services. (Environment)
430, LT 537, am 574, psd 577, H conc 725, enr am 914, enr 1040 (Chapter 228)
- HB 1315**, relative to the use of certain products containing phosphates. (Environment)
393, am 477, psd 486, H conc 631, enr 798 (Chapter 100)
- HB 1320-A**, making a supplemental appropriation for capital improvements to the university system of New Hampshire for the Young Building at Keene state college. (Capital Budget)
430, LT 817, K 911

- HB 1322**, relative to the adoption of the New Hampshire hospital master plan of 1994. (Public Institutions, Health and Human Services)
237, psd 573, 577, enr 798 (Chapter 101)
- HB 1323**, establishing a committee to study the issue of the use and disposal of sludge or septage, and requiring notification to certain persons before the application of sludge or septage. (Environment)
393, am 508-509, psd 534, H nonconc, conf 731, rep adop 937, 1025, enr am 1047, enr 1059 (Chapter 229)
- HB 1325**, relative to the emissions reduction trading programs and establishing a voluntary pilot program on enhanced environmental performance agreements. (Environment)
393, psd 477, 486, enr am 917, enr 1040 (Chapter 230)
- HB 1329**, relative to the regulation of massage therapists. (Executive Departments and Administration)
393, psd 451, 474, enr 628 (Chapter 47)
- HB 1331-FN**, relative to clarifying certain provisions under the workers' compensation law. (Insurance)
New title: relative to clarifying certain provisions under the workers' compensation law, and relative to fees for inspection certificates for elevators.
393, rcmt 517-521, am 686-689, psd 724, H nonconc, conf 887-888, rep adop 937-938, 1025, enr 1058 (Chapter 231)
- HB 1332-FN**, requiring financial institutions to display certain information on fees, charges, and available products in their lobbies. (Banks)
393, am 580, psd 629, H rej conf req 884
- HB 1333-FN-L**, relative to public assistance for households containing persons with disabilities. (Public Institutions, Health and Human Services)
232, am 708, psd 724, H conc 807, enr 913 (Chapter 170)
- HB 1335-FN-A-LOCAL**, relative to the New Hampshire Main Street Center and local Main Street programs and making an appropriation therefor. (Public Affairs)
430, psd 567, 577, enr 741 (Chapter 84)
- HB 1339-FN-A**, to study the feasibility of an alternative highway for Route 3 in Franklin. (Transportation)
233, psd 483, 486, enr 576 (Chapter 48)
- HB 1341-FN-A-L**, relative to a corridor study of Route 101. (Transportation)
233, am 712-713, psd 724, H conc 744, enr 894 (Chapter 147)
- HB 1344**, providing for an increase in the maximum cost of sweepstakes tickets and relative to the assignment of lottery prizes. (Ways and Means)
430, am (RC) 605-619, psd 629, H conc 744, enr am 918, enr 986 (Chapter 157)
- HB 1345**, relative to the definition of "unemployment" for the purposes of unemployment compensation, relative to the weekly benefit amount schedule, and designating a portion of the employer contribution to the unemployment compensation fund. (Insurance)
394, psd 521, 535, enr 628 (Chapter 49)
- HB 1346**, relative to notice of benefits charges, maximum weekly benefits, and penalties for failure to disclose a material fact under the unemployment compensation laws. (Insurance)
431, psd 521, 535, enr 628 (Chapter 50)
- HB 1351**, relative to the sale of certain state-owned property at the Franklin Pierce homestead. (Public Affairs)
237, psd 416, 427, enr 432 (Chapter 27)
- HB 1352**, relative to insurance coverage during pregnancy and delivery and the postpartum period. (Insurance)
394, psd 521-522, 535, enr 741 (Chapter 75)
- HB 1357**, relative to court decrees in title disputes. (Judiciary)
394, psd 599, 629, enr 741 (Chapter 76)
- HB 1364**, relative to the annual independent audit of health insurers. (Insurance)
New title: repealing the law requiring certain annual audits of accident and health insurers.
394, am 689-690, psd 724, H conc 744, enr 912 (Chapter 171)
- HB 1366**, requiring the commissioner of the department of corrections to prepare a quarterly report on department of corrections population management. (Public Institutions, Health and Human Services)

New title: requiring the commissioner of the department of corrections to prepare and publish an annual comprehensive plan for the state's correctional system.
137, am 417-418, psd 427, H nonconc, conf 878-879, rep adop 938, 1025, enr 1058 (Chapter 232)

- HB 1368** - requiring permits for dentists who administer general anesthesia, deep sedation, and conscious sedation, and giving the board of dental examiners related rulemaking authority regarding the permits and fees. (Public Institutions, Health and Human Services)
431, psd 708-709, 724, enr 798 (Chapter 102)
- HB 1369**, adding new requirements for appeals processes and appeals board membership relating to nonprofit health service corporations and health maintenance organizations. (Insurance)
394, LT 522, K (RC) 717-721
- HB 1371**, relative to the authority of the director of forests and lands to enter certain private lands. (Fish and Game/Recreation)
394, K 558-559
- HB 1375**, relative to penalties under the workers' compensation law. (Insurance)
394, psd 452, 474, enr 576 (Chapter 51)
- HB 1379**, to require financial filings by county and local party committees. (Public Affairs)
394, LT 567-568, 722, K 911
- HB 1392**, establishing a legislative oversight committee on electric utility restructuring, requiring all electric utilities to submit rate restructuring plans, and establishing restructuring principles to be used by the public utilities commission in assessing and approving utility restructuring plans. (Executive Departments and Administration)
New title: restructuring the electric utility industry in New Hampshire and establishing a legislative oversight committee.
remarks 27-31, intro 138, am 542-557, psd 578, H conc 716, enr am 797, enr 865 (Chapter 129)
- HB 1394**, establishing a committee to study the reporting of medical test results to health care consumers. (Public Institutions, Health and Human Services)
137, am 602, psd 629, H conc 744, enr 913 (Chapter 172)
- HB 1399**, establishing 2 new positions in the department of environmental services to implement the sludge permit system; repealing the sewage disposal system fund; relative to sewage disposal system recording fees; and making appropriations from the balance contained in the sewage disposal system fund.
First new title: establishing 2 new positions in the department of environmental services to implement the sludge permit system and making appropriations from the balance contained in the sewage disposal system fund.
Second new title: establishing 2 new positions in the department of environmental services to implement the sludge permit system, making appropriations from the balance contained in the sewage disposal system fund, and relative to the sewage disposal system fund.
430, am & Finance 591-592, am 752-753, psd 800, H nonconc, conf 879, rep adop 939-940, 1025, enr am 1054-1055, enr 1093 (Chapter 233)
- HB 1400**, relative to liquor licensing requirements for veterans' clubs and social clubs. (Ways and Means)
New title: relative to liquor licensing requirements for veterans' clubs and social clubs and relative to liquor licenses for off-site catering services.
394, am 444-445, psd 446, recon notice 447, recon & am 472-473, psd 474, H conc 716, enr 801 (Chapter 103)
- HB 1403**, relative to the charges for driving a motor vehicle or operating off highway recreational vehicles under the influence of drugs or liquor, or driving with excess alcohol concentration. (Judiciary)
237, psd 481, 486, enr 576 (Chapter 52)
- HB 1404**, lowering the blood alcohol concentration for aggravated driving while intoxicated from 0.20 to 0.16. (Judiciary)
232, psd 481, 486, enr 865 (Chapter 130)
- HB 1406-FN-A**, authorizing the commissioner of the department of corrections to transfer funds within the department of corrections budget for funding for the pathways program for the fiscal year 1997. (Judiciary)
237, Finance 454, psd 829, 864, enr 987 (Chapter 173)

- HB 1408**, establishing a committee to study the law regarding AIDS. (Public Institutions, Health and Human Services)
138, K 481-482
- HB 1410-L**, relative to special revenue funds. (Ways and Means)
New title: relative to special revenue funds and relative to the payment of taxes in the town of North Hampton.
387, am 533-534, psd 535, H conc 744, enr 894 (Chapter 148)
- HB 1415**, relative to the confidentiality and maintenance of adoption records. (Judiciary)
394, psd 599, 629, enr am 889-890, enr 1093 (Chapter 234)
- HB 1426**, allowing the acquisition of certain easements near newly-constructed limited access highways. (Transportation)
232, psd 442, 446, enr 496 (Chapter 28)
- HB 1427**, relative to termination of parental rights for a parent incarcerated for capital murder or first or second degree murder. (Judiciary)
394, K 599
- HB 1429**, establishing a study committee on interstate banking and branching. (Banks)
394, rules suspended & psd 714, 724, enr 801 (Chapter 104)
- HB 1431**, requiring individual health insurance policies to cover nonprescription enteral formulas. (Insurance)
394, am 690-693, psd 724, H conc 744, enr 865 (Chapter 131)
- HB 1434**, establishing a committee to study the issues surrounding the definition of "facility" for the purposes of eligibility for property tax exemptions for water and air pollution control facilities. (Environment)
232, am 402, psd 427, H conc 631, enr 799 (Chapter 105)
- HB 1436**, relative to pecuniary benefits of real estate transactions and loans of directors and officers of charitable trusts and establishing a committee to study the laws relative to charitable trusts. (Public Affairs)
First new title: regulating certain transactions between charitable trusts and directors, officers, and trustees of such charitable trusts.
Second new title: regulating certain transactions between charitable trusts and directors, officers, and trustees of such charitable trusts and establishing a committee to study the laws relative to charitable trusts.
394, am 568-571, psd 578, H nonconc, conf 815, LT 940-944, rep adop 945-948, 1025, enr am 1030, enr 1039 (Chapter 302)
- HB 1442**, relative to children's services. (Public Institutions, Health and Human Services)
First new title: relative to revenue and expenditures for the biennium ending June 30, 1997.
Second new title: relative to the term of the commissioner of administrative services and relative to revenue and expenditures for the biennium ending June 30, 1997
233, am & Finance 770-772, rules suspended 856-857, 866, am (RC) 866-875, psd 909, H nonconc, conf 894-895, rep adop 948-950, 1025, enr am 1039, enr 1058 (Chapter 235)
- HB 1443-FN-A**, relative to the applicability of the meals and rooms tax. (Ways and Means)
138, psd 484, 486, enr 628 (Chapter 53)
- HB 1445-FN-A-LOCAL**, providing for certain services for the developmentally disabled and making an appropriation therefor. (Public Institutions, Health and Human Services)
430, K (RC) 772-776
- HB 1446-FN**, establishing the New Hampshire board of hearing care providers, requiring audiologists to be licensed, and establishing certain fees. (Executive Departments and Administration)
430, psd 668, 724, enr am 917, enr 1040 (Chapter 236)
- HB 1450-FN**, relative to postsecondary educational assistance for members of the New Hampshire national guard. (Education)
First new title: establishing a study committee on postsecondary educational assistance for members of the New Hampshire national guard.
Second new title: relative to postsecondary educational assistance for members of the new Hampshire national guard and establishing a study committee on postsecondary educational assistance for members of the New Hampshire national guard.
387, am 584-585, psd 629, H nonconc, conf 903, rep adop (RC) 950-957, 1025, enr am 1047, enr 1059 (Chapter 237)

- HB 1453-FN**, relative to divisions and employees of the liquor commission. (Executive Departments and Administration)
430, psd 668-669, 724, enr 799 (Chapter 106)
- HB 1455**, relative to the permissible fireworks review committee. (Executive Departments and Administration)
237, am 514-516, psd 535, H conc 725, enr 727 (Chapter 54)
- HB 1458**, relative to the commissioner's authority to make expenditures for certain railroad projects, and requiring the state to provide warning signs for public crossings over state-owned railroad lines. (Transportation)
430, psd 484, 486, enr 741 (Chapter 77)
- HB 1459**, relative to disclosure of information by insurers. (Insurance)
394, am 522-523, psd 535, H conc 744, enr 909 (Chapter 149)
- HB 1463-L**, giving municipalities bonding authority for economic development purposes in certain situations. (Economic Development)
394, psd 447, 474, enr 576 (Chapter 55)
- HB 1472**, establishing a committee to study ways to enhance the postsecondary education system so as to attract European businesses. (Education)
394, am 585, psd 629, H conc 716, enr 801 (Chapter 107)
- HB 1474**, relative to legal name changes by individuals. (Judiciary)
394, am 599-600, psd 629, H conc 744, enr 894 (Chapter 150)
- HB 1476**, delaying the startup of the emissions testing program and requiring the commissioner of the department of safety to study and recommend statutory changes to reflect federal changes in the motor vehicle inspection and maintenance emissions testing program. (Environment)
394, psd 434, 446, enr 496 (Chapter 29)
- HB 1477**, relative to the penalties for a person driving while intoxicated or under the influence of drugs. (Transportation)
395, psd 713, 724, enr 865 (Chapter 132)
- HB 1485**, prohibiting insurance companies from mandating that automobile repairs be made at specific repair shops. (Insurance)
395, am 523-524, psd 535, H conc 744, enr am 890, enr 1040 (Chapter 238)
- HB 1488**, relative to the New Hampshire bankruptcy laws. (Judiciary)
237, am 600, psd 629, H conc 744, enr 894 (Chapter 151)
- HB 1489**, prohibiting gender-based price discrimination. (Public Affairs)
395, K 571
- HB 1492**, authorizing a city, town, or the state to allow the operation of OHRVs on certain sidewalks. (Fish and Game/Recreation)
138, am 437, psd 446, H conc 631, enr 741 (Chapter 78)
- HB 1496**, permitting an authorized agent of a veterinarian to dispense non-controlled prescription drugs. (Fish and Game/Recreation)
237, psd 451, 474, enr 628 (Chapter 56)
- HB 1498-FN-L**, requiring the commissioner of administrative services to purchase electricity through the competitive bidding process. (Executive Departments and Administration)
395, am 488, psd 495, H conc 631, enr 741 (Chapter 79)
- HB 1499-FN**, making the board of nursing administratively attached to the department of health and human services and removing the oversight authority of the commissioner of health and human services. (Public Institutions, Health and Human Services)
395, psd 482, 486, enr 728 (Chapter 80)
- HB 1505-A**, expanding the authority of the commissioner of the department of transportation to use a certain appropriation to purchase airports. (Transportation)
137, am & Cap Budget 442-444, LT 748, K 911
- HB 1508-FN**, requiring the department of safety to keep drivers' records confidential except for certain reasons. (Transportation)
237, am 526-530, psd 535, H conc 744, enr am 918, enr 987 (Chapter 295)
- HB 1509**, making certain retired physicians immune from civil liability for volunteer health education services. (Insurance)
138, remt 438, psd (RC) 693-695, 724, enr 741 (Chapter 81)

- HB 1513**, relative to filings and records held by the secretary of state. (Executive Departments and Administration)
New title: relative to filings and records held by the secretary of state and relative to securities regulation.
387, rcmt 516, am 669-681, psd 724, H conc 744, enr am 1048-1050, enr 1059 (Chapter 239)
- HB 1515-A**, establishing a telecommunications assistance program. (Public Institutions, Health and Human Services)
New title: establishing a telecommunications assistance program and appropriating certain funds for initial costs of such program.
430, am & Finance 602-603, rcmt 753-754, am 829, psd 864, H nonconc, conf 902, rep adop 957-958, 1025, enr 1093 (Chapter 240)
- HB 1517-FN-A**, increasing the cigarette tax and designating a portion of the revenue for cancer-related research and screening and anti-smoking campaigns. (Ways and Means)
430, K (RC) 619-624
- HB 1522 FN**, establishing a committee to review the medicaid rate setting methodology. (Insurance)
138, am 438, psd 446, H conc 631, enr 799 (Chapter 123)
- HB 1524**, relative to operating a motor vehicle with a suspended license and causing bodily injury. (Judiciary)
395, K 600
- HB 1525**, relative to damages in suits brought by administrators of an estate. (Judiciary)
395, SO 600, psd 631-635, 725, enr 798, H sustained veto 1094
- HB 1527**, proclaiming the calendar week of May 15 of each year as Law Enforcement Memorial Week. (Transportation)
237, psd 418-419, 427, enr 432 (Chapter 11)
- HB 1530-FN**, authorizing the executive director of the department of fish and game to regulate the taking of deer and moose and permitting the director to adopt rules relative to a registration agent's fees. (Fish and Game/Recreation)
430, am 593-594, psd 629, H conc 725, enr 801 (Chapter 108)
- HB 1532-FN-LOCAL**, allowing school districts to file a district-wide plan for the evaluation and remediation of teachers with the department of education. (Education)
430, K 585
- HB 1536-FN-A-LOCAL**, relative to encouraging private purchase, clean up, and restoration of environmentally contaminated sites and making a supplemental appropriation to the department of environmental services. (Environment)
430, am & Finance 537-538, am 830, psd 864, H conc 909, enr am 1034-1037, enr 1058 (Chapter 241)
- HB 1538-FN**, restricting rent increases by manufactured housing park owners and operators after notice of eviction has been issued to tenants because of condemnation or change of use of the manufactured housing park. (Public Affairs)
233, LT 571-572, K 911
- HB 1539-FN-L**, relative to fees for group dog licenses. (Public Affairs)
New title: relative to fees for group dog licenses and making a technical correction.
233, am 416-417, psd 427, H nonconc, conf 487, rep adop 877-878, 1025, enr 1058 (Chapter 242)
- HB 1540-FN-L**, changing the school foundation aid distribution formula. (Education)
233, Finance 656-657, K (RC) 830-833
- HB 1541**, relative to employee leasing companies and temporary help services. (Insurance)
395, am 560, psd 578, H nonconc, conf 815-816, rep adop 958, 1025, enr am 1054, enr 1093 (Chapter 243)
- HB 1543**, relative to the confidentiality of records and information collected pursuant to the registration of sexual offenders. (Judiciary)
395, psd 601, 629, enr am 862, enr 911 (Chapter 174)
- HB 1545**, recognizing the validity of faxed search and arrest warrants and domestic violence orders. (Judiciary)
395, am 524, psd 535, recon notice 536, H nonconc, conf 884-885, rep adop 959, 1025, enr 1057 (Chapter 244)

- HB 1546**, promoting boating safety awareness. (Transportation)
First new title: promoting boating safety awareness, limiting the use of the public boat launch at Wellington State park in the town of Bristol, and naming the new park and ride in Plaistow the "Michael C. Weston Memorial Park and Ride."
Second new title: promoting boating safety awareness and naming the new park and ride in Plaistow the "Michael C. Weston Memorial Park and Ride."
395, am 713-714, psd 725, H nonconc, conf 816, rep adop 959-960, 1025, enr am 1042, enr 1058 (Chapter 245)
- HB 1547**, relative to discovery in criminal cases. (Judiciary)
395, am 705-706, psd 725, H nonconc, conf 861, rep rej 965-974
- HB 1548**, relative to county attorneys. (Judiciary)
395, am 454-455, psd 474, H conc 631, enr 798 (Chapter 124)
- HB 1549**, relative to the admissibility of a prior sexual assault into evidence in certain prosecutions. (Judiciary)
395, am, LT, & S Ct opin req (SR 3) 706-707, (SR 6) 1010-1011
- HB 1550**, relative to a lobster management plan and relative to lobster and crab licenses. (Fish and Game/Recreation)
395, am 683, psd 725, H nonconc, conf 880, rep adop 960, 1025, enr 1057 (Chapter 246)
- HB 1551**, establishing a committee to study the functions and duties of the New Hampshire retirement system actuary. (Insurance)
395, K 695
- HB 1555-FN-A**, authorizing the commissioner of the department of environmental services to impose administrative fines for certain environmental violations and continually appropriating certain fine revenues. (Environment)
233, am & Finance 510-512, psd 754, 800, H nonconc, conf 880, rep adop 961, 1025, enr am 1051-1054, enr 1093 (Chapter 247)
- HB 1558-FN-L**, establishing a study committee on taxation of real estate which does not receive municipal services. (Ways and Means)
395, LT 445, psd 575-576, 578, enr 799 (Chapter 109)
- HB 1562-FN-L**, relative to preventing downshifting of welfare costs to cities and towns. (Public Institutions, Health and Human Services)
233, am 709, psd 725, H conc 745, enr 913 (Chapter 175)
- HB 1564-FN**, relative to records of adjudicatory hearings in cases involving child abuse or neglect, children in need of services, and delinquent children; de novo hearings in cases involving child abuse or neglect and children in need of services; and the review panel for dispositional orders on delinquency cases. (Public Institutions, Health and Human Services)
First new title: relative to the review panel for dispositional orders on delinquency cases.
Second new title: relative to procedures in hearings of juvenile cases and relative to termination of the guardianship of a minor.
233, am 709-710, psd 725, H nonconc, conf 904, rep adop 961-963, 1025, enr am 1039, enr 1057 (Chapter 248)
- HB 1565-FN**, changing the age of qualification for services in certain cases under RSA 169-D for children in need of services. (Public Institutions, Health and Human Services)
395, am & Finance 776-782, psd 833-835, 864, H nonconc 888
- HB 1567-FN-A**, making a supplemental appropriation to fund the position of state curator and relative to supplemental appropriations for youth development services. (Finance)
New title: making a supplemental appropriation to fund the position of state curator and revising certain supplemental appropriations for youth development services.
137, am 835-837, psd 864, H conc 878, enr am 918, enr 1040 (Chapter 249)
- HB 1571**, relative to the guidelines for the construction and maintenance of certain recreational trails. (Fish and Game/Recreation)
431, psd 490, 495, enr am 1030-1031, enr 1058 (Chapter 250)
- HB 1572-L**, recodifying and revising the solid waste laws. (Environment)
395, am 538-539, recon & rcmt 574, am 592, psd 629, H nonconc, conf 731, rep adop 964, 1025, enr am 1075-1089, enr 1094 (Chapter 251)
- HB 1575**, extending the study committee considering the adoption of a constitutional amendment allowing a yield tax on sand, gravel, and similar materials and relative to taxation of sand, gravel, and similar materials for the tax year ending March 31, 1998. (Finance)
387, psd 754-755, 800, enr 865 (Chapter 133)

- HB 1576-FN**, relative to extended detoxification of pregnant and postpartum heroin addicts utilizing the controlled drug methadone. (Public Institutions, Health and Human Services)
233, am & Finance 782-797, psd 837-838, 864, H nonconc, conf 904-905, rep adop 964, 1025, enr am 1047, enr 1059 (Chapter 252)
- HB 1577**, relative to expenses for voluntary or court dispositional service plans. (Judiciary)
431, am & Finance 760-769, am (RC) 838-847, psd 864, H nonconc 888
- HB 1580-L**, allowing landowners to convey discretionary easements in certain land to the municipality in which the land is located and relative to taxation of land subject to such discretionary easements. (Fish and Game/Recreation)
237, psd 594-595, 629, enr am 862, enr 912 (Chapter 176)
- HB 1581**, prohibiting the operation of a motorboat during license suspension or revocation for DWI and prohibiting the operation of a motor vehicle if a person has been convicted of boating while intoxicated. (Transportation)
395, am 530, psd 535, H conc 745, enr am 890, enr 1040 (Chapter 253)
- HB 1582**, authorizing the department of environmental services to issue permits in emergency situations on behalf of the wetlands board, expanding the exemptions for excavating and dredging permits, and establishing a notification process for the replacement and repair of existing legal structures. (Environment)
396, LT 539-540, am 575, psd 578, recon notice 579, recon & am 627, psd 630, H nonconc, conf 731-732 (H IP)
- HB 1584-FN-LOCAL**, relative to the establishment of a DNA database and to the DNA testing of convicted sexual offenders. (Judiciary)
431, Finance 601, psd 847-848, 864, enr 912 (Chapter 177)
- HB 1586-FN**, relative to minimum bonding requirements for postsecondary institutions, and the state share of default costs on certain federal student loans, and nursing service required for cancellation of nursing scholarship loan obligations. (Education)
137, psd 487-488, 495, enr 798 (Chapter 110)
- HB 1590-FN**, relative to the workers' compensation administration fund. (Insurance)
387, am & Finance 480-481, am 755, psd 800, H conc 807, enr 913 (Chapter 178)
- HB 1592-FN**, naming a certain segment of highway in Merrimack. (Transportation)
137, psd 419, 427, enr 432 (Chapter 30)
- HB 1593-FN**, establishing a joint legislative committee to study the state investigation of the late John C. Fairbanks. (Judiciary)
New title: establishing a house committee to study the state investigation of the late John C. Fairbanks.
233, am 601-602, psd 630, H nonconc, conf 881, rep adop 964-965, 1025, enr 1039 (Chapter 254)
- HB 1594**, relative to commercial driver licensing. (Transportation)
396, psd 714, 725, enr am 916, enr 1040 (Chapter 255)
- HB 1597**, changing the wetlands board to the wetlands council. (Environment)
233, am 657-663, psd 725, H nonconc, conf 816, rep adop 974-975, 1026, enr am 1059-1074, enr 1094 (Chapter 296)
- HB 1599-FN**, postponing the implementation of alternative fuel motor vehicle fleet requirements for 2 years. (Environment)
396, psd 434, 446, enr am 716, enr 742 (Chapter 66)
- HB 1600**, extending the reporting date of the paperless title system study committee. (Transportation)
237, psd 419, 427, enr 432 (Chapter 12)
- HB 1601**, extending the reporting date for the pet overpopulation committee. (Fish and Game/Recreation)
237, psd 451-452, 474, enr 799 (Chapter 111)
- HB 1603-FN**, relative to the budget for the animal population control program. (Fish and Game/Recreation)
431, Finance 490, am 755-756, psd 801, H conc 807, enr 909 (Chapter 152)
- HB 1604-FN**, relative to licensing of dogs. (Fish and Game/Recreation)
237, psd 490, 495, enr am 716, enr 742 (Chapter 67)
- HB 1606**, relative to child support collection. (Judiciary)
396, psd 707-708, 725, enr am 914-916, enr 1058 (Chapter 297)

- HB 1609**, relative to police dogs. (Fish and Game/Recreation)
New title: relative to police dogs and search and rescue dogs.
 396, am 490-491, psd 495, H conc 716, enr am 890-891, enr 1040 (Chapter 256)
- HB 1610-FN-L**, relative to school administrative units. (Education)
First new title: establishing a local education improvement assistance program and making an appropriation therefor, and allowing school districts to withdraw from school administrative units and authorizing school districts to assume SAU responsibilities.
Second new title: allowing school districts to withdraw from school administrative units.
 396, am 585-589, psd 630, H nonconc, conf 905, rep adop 975-982, 1026, enr am 1050, enr 1093 (Chapter 298)
- HB 1611-FN**, establishing a sunrise program. (Executive Departments and Administration)
 396, K 681-682
- HB 1612-FN-L**, requiring the state to transfer ownership of land currently leased from the state by Rockingham county for use as a parking lot for the Rockingham county courthouse to Rockingham county. (Capital Budget)
 387, psd 748-749, 801, enr 909 (Chapter 153)
- HB 1613**, prohibiting and eliminating exclusivity contracts between health care insurers and health care providers. (Insurance)
 396, am (RC) 695-705, psd 725, H conc 745, enr am 862, enr 865 (Chapter 134)
- HB 1614-FN**, relative to the road toll refund. (Ways and Means)
 431, psd 484-485, 486, enr am 716, enr 742 (Chapter 68)
- HB 1619-A**, authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River. (Environment)
First new title: authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River, authorizing the department of health and human services to reroof 4 buildings, extending the lapse date on the Plaistow district court design, refunding bonds and credit arrangements for state notes, relative to disaster assistance and making an appropriation therefor, and relative to the Pease Development Authority and the Manchester airport.
Second new title: authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River, authorizing the department of health and human services to reroof 4 buildings, extending the lapse date on the Plaistow district court design, refunding bonds and credit arrangements for state notes, relative to disaster assistance and making an appropriation therefor, and relative to the Pease Development Authority and the Manchester airport.
Third new title: authorizing a capital appropriation for the cost of construction for the dredging of the Portsmouth Harbor and the Piscataqua River, authorizing the department of health and human services to reroof 4 buildings, extending the lapse date on the Plaistow district court design, relative to refunding bonds and credit arrangements for state notes, relative to disaster assistance and making an appropriation therefor, and relative to the Pease development authority and the Manchester airport.
 137, am & Finance 402-404, am 756-760, psd 801, H nonconc, conf 905-906, rep adop 982-983, 1026, enr am 1050-1051, enr 1094 (Chapter 257)
- HB 1620**, relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas. (Fish and Game/Recreation)
New title: relative to the information required in any contract to lease the Cannon Mountain and Mount Sunapee ski areas, authorizing the services of a consultant to develop a prototype lease and making an appropriation therefor.
 396, LT 595, am & Finance 624-627, psd 848, 864, H nonconc, conf 901-902, rep adop 983, 1026, enr am 1047, enr 1059 (Chapter 258)
- HB 1621**, authorizing the executive director of the fish and game department to conduct wildlife population reductions. (Fish and Game/Recreation)
First new title: authorizing the executive director of the fish and game department to conduct wildlife population reductions on Long Island in the town of Moultonboro.
Second new title: authorizing the executive director of the fish and game department to conduct wildlife population reductions on Long Island in the town of Moultonborough.
 233, am 559-560, psd 578, H nonconc, conf 739, rep adop 983-984, 1026, enr am 1043, enr 1057 (Chapter 259)

- HB 1623-L**, authorizing school districts to establish revolving funds to finance certain programs, and relative to the printed materials revolving fund under the department of education, and increasing the appropriation therefor. (Education)
396, am & Finance 589-591, psd (RC) 848-856, 864, H conc 878, enr 987 (Chapter 179)
- HB 1627-L**, authorizing the Lamprey regional cooperative to issue bonds and notes. (Education)
237, rules suspended & psd 335-336, 385, enr 397 (Chapter 7)
- HB 1628**, relative to methadone maintenance therapy. (Public Institutions, Health and Human Services)
138, K 573
- HB 1630-FN-L**, establishing a new property leasing program for land in the Lake Francis impoundment area and relative to the New Hampshire heritage trail. (Fish and Game/Recreation)
387, psd 560, 578, enr 865 (Chapter 135)
- HB 1631**, relative to felonious use of body armor. (Judiciary)
431, am 492, psd 495, H nonconc, conf 739, rep adop 984, 1026, enr 1058 (Chapter 260)
- HB 1632**, authorizing degree granting authority to the Manchester Institute of Arts and Sciences. (Education)
432, psd 504-505, 535, enr 799 (Chapter 112)
- HB 1633-FN-L**, relative to solid waste management. (Environment)
432, am 477-478, psd 486, recon notice 487, recon & rcmt 494, am 592-593, psd 630, H nonconc, conf 881, rep adop 984-985, 1026, enr am 1089-1090, enr 1094 (Chapter 261)
- HB 1634-FN**, relative to licenses and license fees of electricians. (Executive Departments and Administration)
431, psd 488, 495, enr 799 (Chapter 113)
- HB 1636**, declaring the Milford school district meeting to be held March 9, 1996, to be legally noticed.
rules suspended, intro, & psd 309, enr 371 (Chapter 3)

HOUSE JOINT RESOLUTIONS

- HJR 21**, urging Congress to abolish the federal Department of Education. (Education)
396, psd 505, 535, enr 628 (Chapter 60)
- HJR 22**, urging the New Hampshire congressional delegation to review the significant economic impact of the implementation of the Silvio O. Conte National Fish and Wildlife Refuge. (Environment)
396, am 541-542, psd 578, H conc 716, enr 799 (Chapter 114)
- HJR 24**, encouraging the Department of the Navy to name a vessel the U.S.S. New Hampshire. (Transportation)
396, psd 530, 535, enr 799 (Chapter 115)
- HJR 25**, urging the Federal Energy Regulatory Commission, the United States Environmental Protection Agency, the Council on Environmental Quality, the United States Congress, and the President of the United States to implement increased competition in the electric utility industry in a manner that furthers environmental improvement and promotes full and fair competition including equitable and appropriate environmental regulation for all electricity generators. (Executive Departments and Administration)
396, psd 488-489, 495, enr 577 (Chapter 61)
- HJR 26** - urging the United States Postal Service to issue a stamp to honor Maxfield Parrish. (Public Affairs)
432, psd 492, 495, enr 628 (Chapter 62)

HOUSE CONCURRENT RESOLUTIONS

- HCR 27**, urging Congress to reauthorize the Safe Drinking Water Act. (Environment)
New title: urging Congress to reauthorize certain aspects of the Safe Drinking Water Act.
396, rcmt 512, am 540-541, adop 578, H conc 716
- HCR 29**, encouraging gun safety education programs for children. (Education)
432, adop 505, 535

**CONSTITUTIONAL AMENDMENT CONCURRENT
RESOLUTIONS**

- CACR 34**, relating to amending the New Hampshire constitution to provide that registers of probate be appointed instead of elected. Providing that registers of probate shall be appointed instead of elected. (Russman, Dist 19; Rep. D. Sytek, Rock 26: Executive Departments and Administration)
15, K 268
- CACR 37**, relating to protecting the rights of parents to direct the upbringing and education of their children. Providing that parents shall not be compelled to raise or educate their child in any manner to which they are conscientiously opposed. (Wheeler, Dist 11: Education)
17, K 179

TABLE OF REFERENCES FROM CHAPTER OF 1996 LAWS TO BILL NUMBER

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1	HB 486	49	HB 1345	97	HB 1228
2	SB 115	50	HB 1346	98	HB 1270
3	HB 1636	51	HB 1375	99	HB 1302
4	HB 275	52	HB 1403	100	HB 1315
5	HB 301	53	HB 1443	101	HB 1322
6	HB 475	54	HB 1455	102	HB 1368
7	HB 1627	55	HB 1463	103	HB 1400
8	SB 133	56	HB 1496	104	HB 1429
9	HB 1125	57	SB 500	105	HB 1434
10	HB 1266	58	SB 527	106	HB 1453
11	HB 1527	59	SB 657	107	HB 1472
12	HB 1600	60	HJR 21	108	HB 1530
13	SB 157	61	HJR 25	109	HB 1558
14	SB 631	62	HJR 26	110	HB 1586
15	HB 1131	63	HB 1107	111	HB 1601
16	HB 1124	64	HB 1119	112	HB 1632
17	HB 1126	65	HB 1160	113	HB 1634
18	HB 1140	66	HB 1599	114	HJR 22
19	HB 1146	67	HB 1604	115	HJR 24
20	HB 1197	68	HB 1614	116	SB 501
21	HB 1224	69	HB 277	117	SB 513
22	HB 1227	70	HB 473	118	SB 537
23	HB 1244	71	HB 1129	119	SB 541
24	HB 1259	72	HB 1168	120	SB 549
25	HB 1274	73	HB 1186	121	SB 550
26	HB 1307	74	HB 1189	122	SB 664
27	HB 1351	75	HB 1352	123	HB 1522
28	HB 1426	76	HB 1357	124	HB 1548
29	HB 1476	77	HB 1458	125	HB 420
30	HB 1592	78	HB 1492	126	HB 1164
31	SB 509	79	HB 1498	127	HB 1265
32	SB 616	80	HB 1499	128	HB 1298
33	HB 1120	81	HB 1509	129	HB 1392
34	HB 1143	82	SB 519	130	HB 1404
35	HB 1152	83	SB 603	131	HB 1431
36	HB 1161	84	HB 1335	132	HB 1477
37	HB 1170	85	HB 477	133	HB 1575
38	HB 1172	86	HB 1100	134	HB 1613
39	HB 1175	87	HB 1105	135	HB 1630
40	HB 1211	88	HB 1113	136	SB 523
41	HB 1233	89	HB 1132	137	SB 551
42	HB 1238	90	HB 1138	138	SB 583
43	HB 1268	91	HB 1139	139	SB 632
44	HB 1282	92	HB 1144	140	HB 331
45	HB 1287	93	HB 1151	141	HB 1145
46	HB 1301	94	HB 1163	142	HB 1177
47	HB 1329	95	HB 1180	143	HB 1210
48	HB 1339	96	HB 1212	144	HB 1222

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145	HB 1271	198	SB 618	251	HB 1572
146	HB 1306	199	SB 619	252	HB 1576
147	HB 1341	200	SB 629	253	HB 1581
148	HB 1410	201	SB 651	254	HB 1593
149	HB 1459	202	SB 654	255	HB 1594
150	HB 1474	203	SB 667	256	HB 1609
151	HB 1488	204	SJR 20	257	HB 1619
152	HB 1603	205	HB 1253	258	HB 1620
153	HB 1612	206	HB 151	259	HB 1621
154	SB 540	207	HB 281	260	HB 1631
155	SB 588	208	HB 345	261	HB 1633
156	HB 647	209	HB 417	262	SB 11
157	HB 1344	210	HB 530	263	SB 511
158	HB 175	211	HB 547	264	SB 517
159	HB 471	212	HB 580	265	SB 524
160	HB 533	213	HB 606	266	SB 532
161	HB 1122	214	HB 610	267	SB 539
162	HB 1162	215	HB 1025	268	SB 545
163	HB 1169	216	HB 1110	269	SB 547
164	HB 1193	217	HB 1155	270	SB 560
165	HB 1196	218	HB 1156	271	SB 571
166	HB 1229	219	HB 1192	272	SB 573
167	HB 1267	220	HB 1194	273	SB 574
168	HB 1286	221	HB 1199	274	SB 578
169	HB 1297	222	HB 1203	275	SB 580
170	HB 1333	223	HB 1288	276	SB 594
171	HB 1364	224	HB 1289	277	SB 599
172	HB 1394	225	HB 1291	278	SB 600
173	HB 1406	226	HB 1300	279	SB 601
174	HB 1543	227	HB 1303	280	SB 612
175	HB 1562	228	HB 1314	281	SB 613
176	HB 1580	229	HB 1323	282	SB 621
177	HB 1584	230	HB 1325	283	SB 622
178	HB 1590	231	HB 1331	284	SB 623
179	HB 1623	232	HB 1366	285	SB 625
180	SB 130	233	HB 1399	286	SB 633
181	SB 502	234	HB 1415	287	SB 635
182	SB 515	235	HB 1442	288	SB 640
183	SB 518	236	HB 1446	289	SB 647
184	SB 521	237	HB 1450	290	SB 656
185	SB 525	238	HB 1485	291	SB 659
186	SB 533	239	HB 1513	292	SB 666
187	SB 548	240	HB 1515	293	HB 1134
188	SB 552	241	HB 1536	294	HB 1173
189	SB 554	242	HB 1539	295	HB 1508
190	SB 561	243	HB 1541	296	HB 1597
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